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GEOGRAPHIC OBJECTIVES IN FOREIGN POLICY, I

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The attempt to give international society a minimum of government and order through the establishment of a League of Nations has proved only moderately successful. It is true that states have begun to play politics in Geneva, but they have not ceased the older and grimmer struggle for power in the world at large. The state is still today, as far as its international relations are concerned, primarily a military organization. Its specific aims in its struggle for power may be many, but among them the geographic objectives, the attainment of which will increase the state's relative military strength, are the oldest and the most persistent.

There are several types of geographic objectives, but in this analysis we shall concern ourselves with the strategic geographic objectives of foreign policy. Before we attempt to analyze these specific objectives, however, it is essential to consider briefly the phenomenon of expansion as such, which may be defined as a mere advancement of frontier in contrast to the conquest of a particular bit of territory for strategic reasons.

I. EXPANSION

In order to form any conclusions, however general and tentative, regarding expansion as such, the behavior of states as it has found expression in extension of territory must be viewed over very long periods. Such a time-scale avoids the tendency to regard either war or peace as the normal state and reveals states, in their relations with each other, in their true light as struggling power organizations. Specific boundaries at any given historical period become then merely the political geographic expression of the existing balance of forces at that period, and reveal the combinations and conflicts of forces in a dynamic international

society. Boundary changes will be indications of a shift in the balance of forces, caused either by an increase in driving force on one side of the frontier or by a decrease in resistance on the other.

At any given moment, certain states are expanding, others are contracting, and still others are stationary. So far, no satisfactory comparative study has been made which provides an adequate explanation of the emergence of an expansionist policy. Nor has there been any explanation why certain states, after periods of rest during which they remain stationary or even lose territory, again embark upon a period of expansion. Apparently the very dynamic force of the power organization called the state, which in origin at least was primarily a military organization, like the dynamic force of every organic entity, varies in intensity from time to time, and calls forth an expansionist policy when the dynamic pressure becomes too great to be contained within the existing limits of the state. If it is not possible to isolate the effective cause of expansion as such, it is possible, none the less, to observe the forms in which it manifests itself, and to analyze certain patterns which recur constantly in the shift of frontiers.

Expansion seems to follow the line of least resistance and to occur in waves. New territories are conquered, held, assimilated, and serve as a starting point for a new advance. It is therefore not surprising to find a correlation between amount of expansion and ease of movement. In almost every case, maximum land expansion in the ancient world took place in the thinly populated steppe regions. The enormous empires of Genghis Khan and Tamerlane were steppe empires. The large political units of antiquity, except for Persia, were based mainly on lowland regions, and the Caliphate and the Turkish empire obtained their maximum expansion in the lowlands of the coastal regions south of the Mediterranean. Only China and Rome expanded into difficult terrain.

Modern history records but two instances of great land expansion—the United States, which found west of the Alleghenies a practically empty continent, and Russia, which encountered no resistance east of the Urals. Accordingly, when with the development of navigation in the Renaissance period man achieved greater mobility on sea than on land, it is not surprising to find that maximum expansion was at that time attained by empires based on sea power.

Innumerable cases of expansion illustrate the maxim that it is

easier to conquer than to hold. The advance is pushed beyond the limit of effective control and a large empire begins to crumble at the periphery, either because of exposure to attack or because of centrifugal forces insufficiently counteracted from the controlling center. Rome lost territory at the edges and split in the center; the Caliphate began in 755 to retreat from its furthest outposts; and the Turkish empire, which in 1529 reached its high point, has been decreasing in size ever since. Sea powers follow the same sequence of advance and retreat; the Spanish empire bowed not to foreign invaders, but to centrifugal forces within its overseas territories; and the same trend is visible in the British Empire today.

This process of expansion, viewed over long periods, exhibits other patterns than the simple ones of advance, assimilation, and retreat. Advances that suggest the tactical military operations of outflanking, encirclement, and a break through the center recur persistently. Examples of flanking can be drawn from any period —the threats of Persia to Babylonia after the former's annexation of Armenia and Lydia, the Mongolian advance toward India, the Roman attack on western Germany, the British conquest of Poitou, Guyenne, and Gascony, British opposition to Russia in Asia Minor, and Austrian annexation of Bosnia-Herzgovina are but a few chosen at random.[1]

The process of encirclement often begins by forcing a neighboring country into a wedge position, and was well illustrated by the configuration of the former Czechoslovakia with regard to Germany. Carthage, and later Rome, encircled the Iberian peninsula, the Romans surrounded the Germans, and the Franks, the Burgundians.[2] From the election of Charles Quint to the Peace of Utrecht, France was apprehensive of the Hapsburg circle around her, as she is apprehensive today about the political friendship between Hitler, Mussolini, and Franco.

During the nineteenth century, Sweden and Norway were concerned by attempted Russian expansion to the Varanger and Tana Fjords and west toward Tromso and Narvik. In West Africa, France encircled the English and Spanish colonies, and in East Africa Great Britain surrounds the new Italian empire and in South Africa the Portuguese colony of Mozambique. In contrast to these flanking and encircling maneuvers, Poland broke

[1] *Cf.* Otto Maull, *Politische Geographie* (Berlin, 1925), p. 96. [2] *Ibid.*

through Germany to the sea both in 1920 and earlier, Prussia split the German states into a northern and a southern group, and England broke through the Portuguese spheres of interest in Africa.[3]

It must be remembered that a policy of flanking or encirclement can be carried out by means of actual physical expansion or by the conclusion of treaties or alliances. Such supplementing of national resources with those of their allies is one of the most common expedients employed by foreign offices, but must be considered a political rather than a purely geographic objective, even though it may be destined to serve a similar end.

Other things being equal, all states have a tendency to expand. States like the Netherlands, Sweden, and Spain, which today give no indication of territorial ambitions, once controlled extensive areas—the Netherlands and Spain, far overseas, and Sweden, the lands around the Baltic. The most that can justly be said about Switzerland, Afghanistan, and Thibet is not that they wholly lack the dynamic force which causes expansion, but that they lack sufficient force to carry them against their neighbors over the topographical barriers with which nature has surrounded them. In South America, there has so far been little manifestation of expansion as such, although wars have been waged for the attainment of specific objectives such as access to the sea and access to certain raw materials. It is possible, however, that a period of wars is yet to come on that continent during which some of the smaller states may disappear. At the present stage of development, the dynamic forces of the social structure of even the larger South American states are still incapable of utilizing fully the natural resources within their boundaries, and history suggests that in general states do not embark upon a policy of expansion as such until they have assimilated and utilized to a considerable extent the possibilities of their own territory.

There are limits of expansion, both temporary and permanent, such as natural barriers and the tendency of imperfectly consolidated empires to crumble at the periphery or break in the center, which we have already noted. There are also the limits provided by the counter-pressure of the military strength of other states across the frontier. Whenever such pressures become unequal, boundaries will move. The problem of collective security is the

[3] *Ibid.*

problem of equalizing these pressures; and, as long as that problem remains unsolved, the phenomenon of expansion as such will continue to appear.

Shifts in frontier, which are the physical manifestation of the dynamics of expansion, are not, however, the only or the first indication of a shift in the balance of forces. The realm of international politics is like a field of forces comparable to a magnetic field. At any given moment, there are certain large powers which operate in that field as poles. A shift in the relative strength of the poles or the emergence of new poles will change the field and shift the lines of force. A reorientation and realignment of the small powers in such a field may be the first result of a shift in the balance of forces between the large powers. The reorientation in the foreign policy of many of the central European states after the remilitarization of Germany and the increase in Italian strength is an illustration of this phenomenon.

If our task were to analyze the effect of expansion on the international relations of a certain area, such secondary indications would have to be considered. Our immediate purpose, however, is rather to attempt to dissect the phenomenon of expansion as such, and to discover certain specific forms in which the geographic objectives of states appear. States exhibit throughout history a tendency to expand along certain definite lines—to rectify their frontiers from a strategic point of view, to follow river valleys, to gain access to the sea, to conquer opposite coasts, to gain control of sea routes, and by circumferential and transmarine expansion to make certain marginal seas their own.

II. FRONTIERS

A consideration of forms of expansion will obviously begin with a consideration of the frontier. We have seen the frontier from an international point of view as an expression of a relative power relationship, as that line where conflicting pressures become equalized. From a national point of view, which is the point of view of the individual state, the frontier is the front trench held during the temporary armistice called peace. It is the starting point for the next wave of expansion if viewed in terms of offensive policy, or the first bulwark if viewed in terms of defensive policy.

Geographers distinguish countless kinds of frontiers, primarily in terms of border zones rather than boundary lines, and they

have written learned tomes and drawn beautiful maps indicating the boundaries between climatic zones, types of natural vegetation and fauna, limits of cultivated plants, racial and ethnic frontiers, and even economic frontiers. What concerns us in this chapter is the political boundary, that line of demarcation which divides two governmental and administrative systems, the shifting or maintenance of which is necessarily an objective of foreign policy. In the determination of a desirable political frontier, so-called natural, topographical, climatic, and ethnic boundaries may play a rôle, but it is well to recall at the outset that a political frontier is by definition a creation of man, and therefore an unnatural frontier. The location of the line which the state will try to achieve depends on the significance of the region as a border zone, certain types of which we have sketched in the previous article.

When the world was primitive and relatively empty, the determination of an ideal frontier and the formulation of a frontier policy were very easy. The goal was simple and clear-cut—to obtain security through isolation. Nomadic peoples hunting and watching over their grazing flocks had no conception of a frontier as a definite line of demarcation; they had merely a vague notion of a broad zone which separated their customary grazing and hunting territory from that of another group, and beyond which they might not wander without coming into conflict. Only with the development of agriculture and a settled population did the idea of property in land, and therefore the need for definite dividing lines rather than broad intervening zones, begin to emerge. All these factors accompanied the establishment of the state, but even the earliest states still sought separation through natural or artificially created waste border zones. This idea of dividing zones is closely connected historically with the identification by primitive man of frontiers and thinly populated regions. Lands that were unproductive, and hence unfriendly to man, remained uninhabited and unclaimed, and so the boundary zone tended to begin where population ceased.

Where such zones did not exist naturally, early states began to create them artificially in order to obtain the security that resulted from isolation. This arrangement soon became an impossibility for the Greek city-states and for Phoenicia, whose lack of sufficient territory early forced them to adopt a linear boundary. Such a boundary was not considered desirable, however, and every

city which acquired any military superiority attempted to create an unoccupied zone around itself. Rome transformed twenty-three Volscian cities into the Pontine marshes and destroyed the towns of Latium in order to surround herself with waste territory.[4] An area of about five thousand square miles was set aside between China and Korea, and settlement in it was prohibited and passage across it limited to a particular route. At the head of Solway Firth in medieval times, a so-called "Debatable Ground" served the same purpose, and until recently the frontier between Persia and Turkey was marked by a border zone of indefinite width harassed by almost constant border warfare.[5]

Unfortunately, however, the world filled up, and wide uninhabited waste zones between political units were a luxury that men could not longer afford. Occupied areas began to approach each other across dividing territories, the frontier zone became, instead of an area of peace and isolation, a zone of struggle, and with the rise of the modern state and its concept of territorial sovereignty there appeared the frontier we know today as a definite line separating two systems of authority.

The problem for each state of determining the most advantageous location for this line became more and more complex as contradictory elements struggled for predominance in the formulation of policy. The first conflict arises out of the opposing demands of separation and communication. If a state is pursuing a policy of pure defense, the more completely its frontiers separate it from the rest of the world, the better. With the development of modern world economy, however, it has become desirable for a state to have as much contact with the rest of the world as possible, and therefore to have a frontier that will facilitate communication. Political isolation and economic coöperation have been the ideal of all peaceful states, but few of them have been provided, as has the United States, with ocean frontiers to make that ideal even remotely attainable.

Moreover, mere contact with world economy is not the only economic consideration that influences the formulation of an ideal

[4] Jean Brunhes and Camille Vallaux, *La Géographie de l'Histoire* (Paris, 1921), p. 341.

[5] C. B. Fawcett, *Frontiers* (London, 1919), p. 63. There is a striking modern revival of this custom in the recently announced Russian determination to depopulate a zone on the Russian western border (*New York Times*, October 13, 1938, p. 1).

frontier policy. There may be valuable raw materials in the neighborhood which should obviously be included within the borders, and there may also be important railroad centers which it is desirable to control. In addition to these economic considerations, the theory of the national state which has become generally popular during the last century may demand that a few thousand fellow nationals be included within the boundaries. Such economic and ethnic geographic objectives must be kept constantly in mind in any attempt to establish a satisfactory strategic frontier, for a bad ethnic frontier may hamper the strategic value of a topographically natural frontier, and failure to secure necessary raw materials may prove more disadvantageous to defense than an open frontier. Complete subordination of the economic to the ethnic factor in the post-war peace treaties resulted in the economic destruction of central Europe.

Every frontier policy is therefore necessarily a compromise between various conflicting demands. The task of determining where the frontier should be in order best to satisfy these demands is not made easier when the boundary-makers are not the statesmen of the state concerned but disinterested outsiders. Boundaries are political, not only because they separate political units, but because they are formulated as objectives by politicians. Well-meaning experts make the error of considering boundaries as fixed, forgetting that every state has frontier objectives, and forgetting that political life, like all other forms of animate existence, is not static but dynamic. The helpful Americans who assisted to such an extent in fixing the boundaries of Central Europe after the World War failed to remember that pressure will inevitably develop behind boundaries that bar from the sea a state that has once had access to that sea, or behind boundaries that divide one section of a country from another, and that when pressures become unequal boundaries move.

The "metaphysics" of the "natural" frontier, notwithstanding its pretended scientific basis, has been more confusing than helpful, and a study of frontier changes over the last five thousand years must lead one to the conclusion either that nature was not very clear in its suggestions as to where man should draw his political boundaries, or that man was hard of hearing. The very human habit of calling natural what is desirable, and viewing as unnatural that which is undesirable, still characterizes many students of

political geography. Moreover, the prophets who are leading their peoples in a quest for the "natural frontier" are apt to forget that most frontiers have two sides, and that the more natural a frontier looks from one side the more unnatural it very probably appears from the other.

Even if one focuses on the frontier question from the comparatively simple military and strategic point of view, it remains complex and confused. Immediately the problem of offense and defense arises. An excellent frontier for a primarily defensive policy becomes a very bad frontier for a policy directed at expansion. If statesmen become imbued with the quaint military philosophy that the best defense is a good offense and that security lies in expansion, there is no hope of attaining a natural or satisfactory frontier until the world has been conquered. For Korea must be taken to provide security for Japan, Manchuria to secure Korea, Inner Mongolia to secure Manchuria, Outer Mongolia to secure Inner Mongolia, and so on until the globe is circled. When Rome took Gaul she needed the Rhine as a strategic frontier, and when she took the Rhine she needed the bridgeheads and a neutral zone on the right bank, and then the Elbe to protect this land. In 1879, Great Britain claimed the watershed between India and Afghanistan a natural and proper frontier. Then, as Russia advanced her frontier to the northern boundary of Persia and Afghanistan, Great Britain found it necessary to take Beluchistan and, in 1901, the Northwest Provinces.

But even if the search for a natural frontier has proved increasingly vain, it has been so consistently a part of the foreign policy of almost every state that no analysis of policy is complete without an investigation of the forms which the search has assumed. In earlier historical periods, one of the most frequent frontier objectives was a river. It was viewed as a natural frontier *par excellence* and had the obvious advantage of being a clear line of demarcation. This latter quality allowed it to retain popularity in council rooms where dignified diplomats divided up unknown continents long after it had proved useless as a frontier in Europe. It was indeed a clear line of demarcation, provided the diplomats were all talking about the same river, which was not always the case, as the confusion over the St. Croix river boundary proved.

Rivers, however, once had other merits as boundaries. The space devoted by historians to Alexander's bridge construction over the

Indus, Caesar's report of crossing the Rhine, the accounts of Trajan's and Mark Aurelius' crossing of the Danube, all reveal that a river was once a very considerable obstacle to the advance of an army. When the Romans had surrounded their empire with rivers, they therefore had achieved a certain measure of security. Certain writers like Haushofer and von Scheliha nevertheless tend to minimize the importance of rivers as protective frontiers, and explain the tendency of early states to desire them as boundaries on the ground of a need for water and also of the religious tradition and significance that once attached to water.[6]

With the development of any degree of economic life, rivers of course became routes of communication instead of barriers, and river valleys quickly became economic units. This trend is strikingly demonstrated by the fact that early states which secured access to a river almost without exception showed a tendency to expand up and down stream on both sides of the water. As they ceased to be barriers, rivers obviously lost desirability as frontiers, and, except in relatively new lands like those of the American continents, they seldom function as boundaries today. Only where an unnavigable stream flows at the bottom of a deep gorge which cannot be easily bridged does a river really obstruct movement. An expanding power may set a large river as its goal, but with the ultimate intention of using that river as a base for further conquest, just as Rome used the Rhine and Danube lines. France still claims that the Rhine is her "natural" northeastern limit, but bases her claim rather on tradition than on reason, for the Rhine valley is very obviously an economic unit; and the "military frontier" of the Austrian Empire against Turkey used the Sava and the Danube for the southern boundary of pre-war Hungary, though the people of the valley were Slavs and the valley an ethnic and economic unit.

River boundaries today, therefore, may be suspected of being for the most part only temporary expedients, since they are so clearly economic anachronisms. They abound in the New World, especially in Central and South America, where boundaries are still in dispute, and where in many cases difficult terrain for surveying has made rivers the most convenient line of demarcation. In Africa, the Kavalli forms the eastern boundary of Liberia, the

[6] Karl Haushofer, *Grenzen in ihrer Geographischen und Politischen Bedeutung* (Berlin, 1927), p. 74; Renata von Scheliha, *Die Wassergrenze im Altertum* (Breslau, 1931), pp. 97–100.

Congo and the Ubangi mark most of the frontier between French West Africa and the Belgian Congo, and the Ruvuma separates Tanganyika from Mozambique. Russia has many miles of river boundary, for the Dniester, the Oxus, the Arares, the Ussuri, and the Amur all flow along various sections of her long frontiers. It is significant, however, that these boundaries have practically all been established recently, and that on many of them, especially in the Far East, there continue to be frontier incidents—all of which suggests that the Russian frontiers may not be very permanently fixed. The other Asiatic river boundary, the Mekong, which separates French Indo-China and Siam, gives promise of being permanent because, flowing at the bottom of a deep gorge, it presents a genuine obstacle to movement. Certainly the Drava, which marks the border between Hungary and Yugoslavia for a distance of about one hundred miles, and the Danube, which flows along the Rumanian-Bulgarian and part of the Rumanian-Yugoslavian borders, are neither strategic nor economic boundaries.

Another frontier that has been the constant goal of many states is the seacoast. Like a river, the coast sets no real limit to expansion, for the tendency of states to expand across inland and marginal seas to the opposite coast indicates that the mere arrival of a state at the coast does not mean that it has reached a natural stopping point in its territorial development. Access to the sea has been such a universal objective in the foreign policy of states that it seems to merit detailed consideration as a specialized form of expansion. It will, therefore, be discussed later in connection with other special forms of expansion.

Forests, swamps, and deserts, which provided genuine protection in days of primitive technology and communication systems, were ideally suited to function as zones of isolation, but have seldom been sought as frontiers by modern states. Of all the so-called natural frontiers which have been desired by states, the only one which has retained much of its protective value is a high mountain range, which still makes movement definitely difficult and therefore facilitates defense. Mountains are not absolute barriers to movements, as the emergence of many pass-states has proved; but they hamper movement and provide a barrier zone in which it is comparatively easy to draw as the boundary the line of the peaks or that of the watershed. These two lines will not necessarily coincide, but their divergence will create a problem of only minor

adjustment. Such a boundary has an economic as well as a strategic justification, for there is always an unmistakable orientation of the population toward a valley which they can see from the mountain crest. But even these so-called strategic mountain frontiers are not barriers to growing, dynamic states. They have never checked expansion if the pressures on opposite sides became too uneven—the Caucasus did not stop Russia, nor the Rockies, the United States—and the development of new means of communication and constant changes in the technique of warfare bring perennial changes in the strategic value of a particular border region. No frontier appears to offer a natural defense against enemy attack except perhaps the waste areas that were the earliest solution to the problem; and there is no hope of re-creating such intervening zones, because the effective radius of bombing planes is constantly increasing.

Nevertheless, just as Rome for centuries sought what seemed to her the ideal frontiers of ocean and river, just as Louis XIV desired to perfect the French frontier by taking Luxemburg, Strassburg, and Kehl, and just as Italy disregarded the handicap of a dissatisfied German minority within her borders in order to improve her strategic frontier by possession of the South Tirol, so states will continue to strive for the frontier that seems to them most nearly ideal at the moment; for the nature of the state is such that frontiers can never lose their significance.[7]

About the topography of the ideal frontier little more can be said than that, once having determined on a defensive or an offensive policy, a state can use certain geographic configurations more easily than others for certain types of artificial military systems of defense and offense. If the policy of a state is directed toward expansion, the ideal frontier becomes one which provides for *glacis* and bridgeheads in enemy territory. Calais was for England a bridgehead which not only protected her but provided an excellent

[7] "Supprimons par hypothèse la démarcation linéaire; supprimons même les travaux militaires de protection et d'attaque: la masse de conflits latents qui forme la base solide de la frontière de tension subsiste toujours, tant que le pays reste fait pour attirer les hommes et tant que de grands groupes organisés en nations ont besoin de la place au soleil que représente la zone de démarcation. Supprimée par un acte de la volonté humaine, la frontière militaire et politique renaîtrait spontanément de l'impérissable frontière ethnique, économique et sociale. Les frontières de tension ne peuvent réellement disparaître que si les États autonomes et souverains disparaissent aussi. La fin des frontières serait la fin des États, expressions concrètes des nations vivantes . . . " (Brunhes and Vallaux, *op. cit.*, p. 352).

starting point for further English invasions. When Sweden in 1720 was forced to relinquish the territory won by Gustavus Adolphus, she retained the bridgehead of Wismar, which she did not formally renounce until 1903. France has always been eager to hold the Rhine bridgeheads. She took Breisach in 1639 and Strassburg in 1681, and, to protect Strassburg, claimed the bridgehead of Kehl, which she held from 1801 to 1803 and from 1918 to 1930.[8] In other words, for a state which is expanding, a strategic frontier is one from which an offensive can be launched effectively. For a state whose policy is defensive, a strategic frontier is the limit which that state has set to its expansion for the time being.

Many so-called natural frontiers like the forests and rivers of Europe have been disregarded and discarded, and many apparently unnatural frontiers like the boundaries between the United States and Canada and between Canada and Alaska have stood the test of time. Whether their aims were offensive or defensive, however, men have always been forced to supplement the gifts of nature in order to secure a satisfactory frontier. Even natural defensive barriers have been reinforced by military and political means—by fortifications and specific types of military border organizations like the "marches," and by political creations such as buffer states. The Chinese, the Persians, and the Romans built walls; the French and the Germans still build walls. The Middle Ages created that type of border organization known as the "march" states, and the modern age has evolved the expedient of the buffer state.

The march states were frontier provinces commanded by permanent military chiefs, known in England as lords of the marches and in the Holy Roman Empire as markgrafs, charged with the duty of guarding the frontier and of guarding it with their own efforts and resources. Behind these frontier provinces, whose sole function was that of protectors, the inland territory could carry

[8] Note also that the same bridgehead can be an offensive position for one state, but a defensive position for the other. Already in 1697 Ludwig von Baden said of Strassburg: "Für Deutschland dient diese Stadt zu nichts anderem als einer ständigen Versicherung des Friedens, für Frankreich aber ist sie eine immerfort aufstehende Kriegspforte, woraus es, so oft es nur will, in das platte Land vorbrechen kann." Quoted in Richard Hennig, *Geopolitik* (Leipzig, 1931), p. 140. In this connection it is interesting to note that the foreign concessions in China have been used as bridgeheads for military operations in the interior by the Western powers and Japan.

on its normal activity in comparative security. Some of these marches were eventually absorbed; others, situated between two strong states, became genuine buffer states; still others eventually developed strength of their own, expanded, and took their places among the European powers. It may or may not be significant that two of these eastern marches ultimately grew stronger than the overlords whom they protected, and emerged as the independent states of Prussia and Austria. The post-war states of Poland, Czechoslovakia, Rumania, and Yugoslavia, which France in 1920 forged into a "cordon sanitaire" against Russia, are strikingly reminiscent of the march provinces that guarded the eastern frontier of the Holy Roman Empire against Slav advances. Attempts are now being made to make them serve as a "cordon sanitaire" against Germany.

Among political devices to increase frontier security, the buffer state is the most persistent type. It bears a strong resemblance to the zones of waste land which were man's first solution of the defense problem. The strip of uninhabited land served the cause of peace and security by keeping apart two dynamic powers that otherwise would have come into conflict; the function of the buffer state is precisely the same. Where it is impossible to arrive peacefully at a common frontier, two states may be able to avoid conflict by preserving or establishing between them a third state which retains its independence by virtue of their mutual desire to maintain it. The small state survives because each of its strong neighbors refrains from conquest upon condition that the other displays a similar restraint and is willing to defend the territorial integrity of the buffer. In a previous article we considered the limitations on foreign policy which derive from the fact of being a buffer state.[9] Here we must consider the creation, preservation, and destruction of buffer states as objectives in foreign policy.

At the Congress of Vienna, Switzerland was neutralized and her independence guaranteed by the European powers in order to provide a buffer between France, Italy, and Bavaria; and the Austrian Netherlands was united with Holland to form a bulwark against any further northward moves on the part of France. Fifteen years later, Belgium became independent and her neutrality was guaranteed so that she might stand between Great Britain and Germany and France and Germany. In the Treaty of London of

[9] See this REVIEW, Feb. and Apr., 1938.

1839, British influence so arranged the Belgian boundaries that the open and direct land route from Germany to Antwerp is barred by the Dutch province of Limburg, and the sea approach by the Dutch province of Zeeland, putting every possible obstacle in the way of German use of Antwerp as a base for an attack on Great Britain.

A number of European states created at Versailles in 1919, although not established specifically as buffer states, have functioned as such to a certain degree. Austria was a buffer in both position and strength, although the relationship between her and her neighbors was already in its later phase characterized by constant attempts on the part of both strong powers to gain control of the buffer. She owed her precarious existence between 1920 and 1938 to the equality of strength of Germany and Italy, and it was inevitable that she should be absorbed as soon as that power equilibrium was disturbed.

During the nineteenth century, Russia moved slowly into Central Asia and gradually approached the Indian frontier, to the great anxiety of the British. British and Russian influence clashed in Afghanistan, Persia, and Turkestan, where each power was trying to establish its own domination in order to check the advance of the other. Boundary agreements between 1887 and 1889 offered no final solution, and it was not until the Anglo-Russian agreement of 1907 that danger of a conflict was finally past. This agreement recognized the suzerainty of China over Thibet, recognized Afghanistan as a British sphere of influence, and divided Persia into three zones, the northern to be a Russian sphere of influence, the southeastern, a British sphere, and the third, a neutral zone between the other two. The agreement remained in force until after the World War, when it was repudiated by the Soviet government. Great Britain was forced to recognize the complete independence of Persia and Afghanistan, the latter in 1919 in the peace of Rawalpindi. Afghanistan then became politically the perfect buffer state that she has always been geographically, since a buffer state in the strict sense of the term must be no more dependent on one than on the other of the strong powers that it separates.

The evolution of Siam as a buffer state offers much the same sequence of events. An Anglo-French convention of 1896 neutralized central Siam, and a second convention in 1907 confirmed the

first and defined the territory west of the Menam and the Gulf of Siam as in the British sphere of influence and the territory east of these lines as in the French sphere. After the War, the full independence of Siam was recognized.

In northeastern Asia, the constant expansion of Russia and Japan has called into being a series of buffer states. Japan attempted to make Korea an independent buffer state between herself and China, until the Sino-Japanese war definitely ended Chinese influence in the peninsula. During the next ten years, Korea served as a buffer between Russia and Japan, but after Japan defeated Russia was incorporated into the Japanese empire. Manchuria then became the Russo-Japanese buffer. In 1932, as the Japanese advance continued, Inner Mongolia replaced Manchuria in this capacity, and in 1936 Outer Mongolia in turn assumed the rôle.

We have already noted that the phenomenon of expansion as such has not yet appeared in South America. The type of situation which leads to the creation of a buffer state has therefore arisen but rarely, and Uruguay, whose independence was recognized by Argentina and Brazil and guaranteed by Great Britain in 1828, is the only buffer on the continent. The African continent, like eastern Asia, affords a striking example of a buffer that ultimately failed to function because of too great pressure from one side and none from the other direction to counteract it. The Congo still separates England and France in central Africa, but Ethiopia, which once stood between England, France, and Italy, has been absorbed because a buffer state can fulfill its function only when it lies between two or more states of approximately equal strength, and the pressure of Italian expansion had become overwhelmingly stronger than the opposing French or British pressure.

It is interesting to recall that the buffer state is not a nineteenth-century invention. To mention but two early examples—in the fifteenth century B.C. the Mitannian king attempted to re-create the kingdom of Kadesh as a buffer between himself and Egypt, and fifteen hundred years later Pompey tried to use Syria to check the expansion of Iran.[10]

From the point of view of location, a distinction may be drawn between buffer states which separate two land powers and those

[10] Cf. James H. Breasted, *A History of Egypt* (London, 1912), p. 285, and Michael Rostovtzeff, *Caravan Cities* (London, 1932), p. 101.

which stand between a land power and a sea power, and whose function is to bar the land power from the ocean and thus prevent a conflict. In the latter case, the buffer may or may not occupy a central position between the two strong powers that it separates. Belgium and Holland, which keep Germany from the coast opposite Great Britain, lie directly between the two; but Persia, whose function is to keep Russia from the Persian Gulf as well as from India, does not occupy a central position between Great Britain and Russia. Rumania and Bulgaria did not anywhere touch British territory, but in so far as they were created to bar to Russia the road to Constantinople, and so prevent a Russo-British conflict, they functioned as buffer states—as did Turkey during the nineteenth and early twentieth centuries when Great Britain supported her to keep Constantinople out of Russian hands. So it appears that, when one of the strong powers concerned is a sea power, a buffer state may lie directly between its territory and that of a land power or merely between the land power and the sea, access to which would bring the land power into conflict with the sea power.

A buffer state is particularly effective if, due to topography or general lack of technical development, it functions as a genuine barrier to communication. In 1932, Albania was the only European state that had no railroad, and by that token was an ideal buffer. Afghanistan is without railroads and with very few roads in any way suitable for armies or the movement of material, and accordingly an effective attack from Russia against Kabul or Kandahar is practically impossible. The Afghan climate, which has taken toll of every Occidental invader, also acts as a barrier. Thibet is likewise without communication systems, and until 1914 there was no railroad in Persia except a local one near Teheran. On the other hand, Belgium, although a buffer state, is by topography and location essentially a passage state and not a barrier state. It is the political factor rather than the geographic, therefore, that is responsible for her continued existence.

As time goes on, however, systems of communication will develop in the most backward of the barrier states regardless of attempts of the great powers to delay such progress and retain the states as perfect buffers. When this development comes, the great powers concerned will immediately become competitors in attempts to cause the construction of systems of communication

that will be of strategic advantage to one and a strategic handicap to the other. When, between 1896 and 1898, Russia extended a branch of its trans-Caspian road to Kushka, near the Afghan border, Great Britain tunnelled through the Chodscha-Amrun on the Indian-Afghan border so that a strategic road could be built to Kandahar with as little loss of time as possible should Russia try to dominate Kabul.[11] There is now a railroad in Baluchistan running from Nushki to Mirjawa on the Iranian border, roughly parallel to the Afghan frontier and about fifty miles from it, and the road from Krasnovadsk to Tejend is parallel and near to the Iranian frontier for several hundred miles. A trans-Persian railroad is being built from Bandar Shah on the Caspian through Teheran to Hamadan and the Persian Gulf, which might offer an opportunity for Russia to advance through Persia to the British oil sources. In Korea, Japan constructed a railway system, and the railroads in Manchuria have been the constant object of Russo-Japanese-Chinese rivalry.

It appears that the neighbors of a buffer state come to regard it not as a no man's land, but as a two man's land, as a zone of intervention, the moment communication becomes feasible. This is inescapable, because the possibility of transportation transforms the territory of these weak states into exposed frontier zones for both the neighbors, and therefore significant elements in the defense systems. As such, they must be secured against penetration by the enemy, and each power concerned is accordingly engaged in strengthening its own political influence in the buffer territory. This parallel in the political field of the military principle of an offensive as a form of defense explains the British spheres of influence in Persia and Thibet, the Russian spheres in Persia, Mongolia, and Turkestan, and the Japanese spheres in Manchuria and Inner Mongolia.

Over a long period of time, buffer states usually undergo a certain process of evolution. Occasionally they grow strong enough to cast aside the protection of others and stand alone. Rumania and Bulgaria, created to bar the way to Constantinople, now pursue more or less independent policies, and even Afghanistan and Persia are attempting to shake off foreign control. The Teheran protocol of June, 1928, created a common Turkish-Afghan-Persian front

[11] Hennig, *op. cit.*, p. 210.

against foreign aggression, and Persia has been very emphatic in defending her rights against British encroachment.

But more frequently the evolution is in the direction of domination and absorption. Since by definition buffer states separate two or more powers that desire to expand, there is a constant tendency for those powers to encroach on the territory of the buffer states. Russia has taken the Pamir area, and Great Britain has pushed her boundary north to the "natural" frontier of the Hindu Kush watershed until there remains of Afghanistan in that particular spot only a "schmaler, schlauchartiger, wirtschaftlich wertloser Nordostzipfel"[12] a few hundred miles long and less than fifteen miles wide. Such a process of encroachment may continue for a long time, but if the political need for the buffer state remains constant, its territory may approach zero as a limit, though it will not entirely disappear. From the point of view of frontier dynamics, buffer states are subject to the same set of forces that operate on boundaries. If the pressures on either side are approximately equal, the buffer, like the boundary, will be stable; if the pressures become sufficiently unequal, the buffer will crumble and eventually be swallowed by one of its large neighbors, just as Ethiopia and Albania have been absorbed by Italy, Manchukuo by Japan, and Austria by Germany. Buffer states will also tend to disappear after a war in which one of the two great powers is decisively defeated, whether or not the buffer itself was the sole object of the war. Korea did not become legally Japanese until 1910, but her fate was sealed in 1905; for a buffer state by definition stands between two powers of approximately equal strength, and the defeated Russia was no longer a menace to Japan, so that a buffer was no longer necessary.

The creation of buffer states is therefore merely one more goal of the search for an ideal frontier. States which are expanding will be less apt to favor them, since buffer states set at least a temporary limit to expansion; but states which are willing to set such a limit for the time being, and which have neighbors approximately their equals in strength, will frequently, if circumstances make such an arrangement at all possible, revert to the wisdom of the ancients and attempt to reproduce the no man's land that protected early states. Unless geography comes to the aid of politics, buffer states

[12] Hennig, *op. cit.*, p. 211.

are at best, like other frontier defenses, only temporary expedients; for if pressures become too unequal, boundaries will move. When this situation arises, even the guaranty of third powers will probably fail to preserve a buffer state. When, however, pressures are approximately equal, and it still proves difficult to arrive at a stable common frontier, a buffer state provides a certain degree of security for both sides by acting as a neutral zone, and functions as a keeper of the peace by effecting at least temporary physical separation of the potential combatants.

It seems possible, then, to view the frontiers and buffer states existing at any given moment as a political-geographic expression of temporary power-relationships in a dynamic world in which expansion is a normal by-product of an inevitable struggle for power. Since there is no reason to assume that the present distribution of power will remain constant, it appears safe to predict that the frontiers existing in the world today will prove to have been fixed for only a relatively short period of time. Until such time, therefore, as an effective international government shall deprive the frontier of its military and economic functions, frontier changes will remain a persistent objective in the foreign policies of states.

(*To be concluded in the next issue*)

THE MOST-FAVORED-NATION POLICY IN RELATION TO TRADE AGREEMENTS

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I. THE TWOFOLD OBJECTIVE OF THE AMERICAN TRADE AGREEMENTS PROGRAM

The virulent disease which has been attacking and crippling international trade, particularly since 1929, has manifested itself in two different forms. The one is mounting trade barriers, which tend to fence off nation from nation and thus effectively to check the flow of world trade. The other is the practice of discrimination, which nations are using in increasing degree to force markets out of the hands of their competitors or to gain political advantage of one kind or another. If economic stability is to be won and the peace of the world to be made secure, it is just as necessary to overcome the one as the other.

The Trade Agreements Act was passed by Congress for the purpose "of expanding foreign markets for the products of the United States." It is clear that the accomplishment of this purpose necessitates a program with a two-fold objective. The program must seek, first, the reduction or elimination of excessive trade barriers; and second, the elimination of trade discriminations.

These two objectives are interdependent and inseparable. Discriminations encourage mounting trade barriers in retaliation; mounting trade barriers frequently lead to discrimination. It is the combination and interaction of the two that has intensified and prolonged the world depression and that constantly stimulates international discord.

This twofold objective is reflected in the form of each trade agreement. One part of the agreement consists of lists of precisely specified concessions given in exchange—tariff reductions or bindings, quota enlargements, more liberal exchange allotments, and the like, all making for a reduction in excessive trade barriers and thus for an increased flow of trade between the two countries, to the profit of both. The other part of the agreement, equally necessary and equally important, is an exchange of guarantees, each party to the other, that neither will discriminate against the trade of the other—in other words, that each will grant to the commerce of the other in every respect treatment no less favorable than that

accorded to the most favored nation. This guarantee of non-discriminatory treatment, of course, applies to every form of trade concession, whether granted under existing agreements with other countries or under those to be made in the future.

One must not be misled by names. A policy of granting "most-favored-nation" treatment may sound to the uninitiated like some form of special favor or preference. In truth, it is exactly the reverse. An unconditional "most-favored-nation" policy means a policy of non-discrimination, of equality of treatment, of granting to others treatment equal to that accorded to the most favored nation. "Most-favored-nation" treatment might better be termed "equality of treatment" or "non-discriminatory treatment."

It is discrimination that kills trade and prostrates business. Heightened trade barriers may reduce the profits of domestic producers and exporters and considerably reduce the flow of trade. Nevertheless, so long as the barriers are maintained against all alike, producers who have been supplying the market may hope, by obtaining increased prices from purchasers or by reducing their selling prices, to continue to hold at least their share of the reduced market as against other foreign suppliers. But discrimination may mean sudden and complete disaster. If the consuming country grants to one of two or more trade competitors an exclusive preference, or for political objectives erects tariff or other barriers against one country alone, customary producers may find their market gone in a day, and be powerless through price adjustments to protect themselves. Prosperity in business rests fundamentally upon stability and security. Nothing strikes more directly at the very heart of these than the practice of discrimination. When, as often happens, discrimination is used with political ends in view, international trade becomes the football of international politics. The exchange of promises to accord non-discriminatory treatment, or in other words, most-favored-nation treatment, therefore, is as vital a part of a trade agreement and as necessary for the protection of American trade, as the exchange of specific tariff reductions. In some cases, indeed, it is by far the more important of the two.

If, therefore, foreign markets are to be made secure for the products of the United States, our American trade-agreements program must of necessity be built upon the policy of non-discrimination, or in other words, upon the "most-favored-nation" policy.

II. AMERICAN PRACTICE IN THE PAST

The most-favored-nation policy is nothing new. It was enjoined upon us in unequivocal terms by George Washington in his Farewell Address. "Harmony, and a liberal intercourse with all nations," he said, "are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand, neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing."

So far as our tariff policy is concerned,[1] we have in general ever since his day followed the practice of non-discriminatory treatment enjoined upon us by Washington. We have maintained what is known as a "single-column tariff," with rates applicable to all nations alike, except for the preferential relations which since 1902 have marked our trade with Cuba. In our treaties prior to 1923, however, most-favored-nation treatment was defined in its "conditional" form, that is, we agreed to extend such concessions as we might grant to a third nation for compensation only *on condition* that the other country pay for them the same or an equivalent compensation. As explained below,[2] the "conditional" form of the most-favored-nation policy proved so unsatisfactory and so inadequate to protect American export trade that in 1923, under the administration of President Harding, Mr. Charles E. Hughes, then secretary of state, inaugurated a new series of commercial treaties incorporating the most-favored-nation policy in its "unconditional" form, under which nations agree to extend to each other freely and unconditionally such concessions as are granted to third nations whether for compensation or otherwise. Since that time, our government, under both Republican and Democratic administrations, has, with but a few unimportant exceptions, followed the "unconditional" most-favored-nation policy in its commercial relations with all countries except Cuba. Thus, the Republican party platform in 1932 declared that:

> The historic American policy known as the most-favored-nation principle has been our guiding program, and we believe that policy to be the only one consistent with a full development of international trade, the only one suitable for a country having as wide and diverse a commerce

[1] In our shipping policy, we have from time to time resorted freely to discriminatory practices.

[2] See *infra*, p. 419.

as America, and the one most appropriate for us in view of the great variety of our industrial, agricultural, and mineral products and the traditions of our people. Any other plan involves bargains and partnerships with foreign nations, and as a permanent policy is unsuited to America's position.

Those who, swept along in the present-day currents of economic nationalism, advocate replacing the most-favored-nation policy with a plausible one of bargaining in preferences and exclusive concessions cannot afford to ignore the consequences and the cost.

III. THE TWO ALTERNATIVES

A nation's foreign commercial practice may be based, in whole or in part, upon either of two conflicting policies.[3] The one is for a nation to extend exclusive preferences to other nations in return for exclusive preferences given to it. The other is to extend trade concessions equally to all nations which do not discriminate against it. Once the precise nature of these two alternatives is clearly understood, there can be no serious difference of opinion as to which is the more advantageous policy or the one best suited to the needs and conditions of the United States.

1. The Policy of Preferential Bargaining. The first policy—that of giving and receiving exclusive preferences—is being followed today by certain important nations, such as Germany. Following the economic crash of 1929, this policy has become increasingly evident as one of the manifestations of the growing spirit of economic nationalism. Although the majority of nations still in general accord most-favored-nation treatment with respect to tariff rates, the new economic weapons introduced since 1929, such as quota restrictions, exchange regulations, import controls, government trading monopolies, and the like, have been extensively utilized to defeat equality of treatment and the most-favored-nation policy.

Of the two alternative policies, that of giving and receiving exclusive preferences will readily win the approval of superficial thinkers, since it has many apparent advantages. A nation following such a policy would give exclusive concessions in return for

[3] A possible third course is the "conditional" most-favored-nation policy. But, as pointed out below, as a tariff policy this is, under present-day conditions, so impractical from an administrative viewpoint and so unwise from an economic viewpoint that, as stated above, it was definitely abandoned by Mr. Hughes when secretary of state and is no longer seriously advocated by responsible statesmen. See *infra*, pp. 419.

exclusive concessions. In other words, tariff reductions or quota or exchange allotments would apply exclusively to the products of the other country, similar products of third countries being subject to higher rates or less favorable quota or exchange allotments. A nation following such a policy would thereby seem to afford greater protection to domestic producers against competing imports from third nations, to secure its own exporters against competition from the exports of third nations in the markets of the other country, and at the same time to increase the inducement to other nations to make concessions to it by giving to their exporters exclusive advantages in its markets.

But, as pointed out below, the difficulty is that each preference given exclusively to a single nation constitutes discrimination against every other nation. There can be no preference without discrimination. And discrimination means retaliation on the part of other nations, and consequently mounting trade barriers—the very opposite of the underlying objective of the Trade Agreements Act.

Bargaining in preferences leads to an arbitrary, rigid, closed economy, to unceasing intrigue and political manipulation. It means a constant shifting of the channels of world trade, not in response to the operation of the fundamental economic forces of supply and demand, but in accordance with the arbitrary and political decisions of governmental officials. It means unceasing and increasing economic conflict and struggle between nation and nation. And economic conflict makes fertile ground for war.

2. The "Most-Favored-Nation" Policy. The alternative policy consists in non-discrimination, i.e., in equality of treatment to all. Not only is it the traditional tariff practice of the United States, but it has formed the basis of most of the trading of the world during the past hundred years. This is the policy which has taken form in the most-favored-nation clause, woven into a network of hundreds of treaties among all nations, whereby each party agrees to give to the other no less favorable commercial treatment than that accorded to the most favored nation.

(*a*) *The Most-Favored-Nation Policy Does Not Mean Giving Away Something for Nothing.* Most of the opposition which has been directed against the most-favored-nation policy in connection with the trade-agreements program has sprung from a complete misunderstanding of what that policy really is. The policy does

not mean giving away something for nothing. We do not extend trade-agreement concessions to third countries for no return. We give such concessions to third nations only in return for their extending to us the benefits of concessions which they have granted, or may in future grant, to other nations. In other words, we give minimum tariff treatment and freedom from discrimination in return for minimum tariff treatment and freedom from discrimination. Out of such a policy comes decided advantage. Experience has proved this guaranteed freedom from discrimination to be of enormous value in dollars and cents to American exports.[4]

(*b*) *The Generalization of Concessions.* The Trade Agreements Act provides that concessions granted under trade agreements shall be extended to the products of other nations so long as these nations do not discriminate against American commerce. This provision has not always been clearly understood. Numerous manufacturers, while subscribing to the general outlines of the trade-agreements program, and while willing to face the competition of imports from the particular country with which a trade agreement is made, fear that, as a result of the most-favored-nation policy of generalization, imports from a host of other countries will drive them out of business. In other words, it is not imports from the country making the trade agreement, but from third countries, that they fear.

In order to preserve our own bargaining power, we have followed as one of the cardinal principles of our policy the general rule of limiting the tariff reductions granted to a country to those commodities of which such country constitutes the chief or an important source of supply. No concession is considered or made without the most painstaking study of the effects which would result from a generalization of such concession to third states. Indeed, before any negotiations were undertaken, even before the Trade Agreements Act was passed, a careful study was made of American imports classified according to the leading foreign sources of supply. It was found that each of a large number of nations was the leading supplier to the United States of at least one important commodity, and in most cases of several. By restricting our concessions in the

[4] According to an estimate made when fourteen of our trade agreements were in force, the pursuit of this policy affected approximately $30,000,000 worth of our imports; in return, it safeguarded and benefited at least $265,000,000 worth of American exports.

main to such commodities in the case of each country, we not only retain sufficient bargaining advantage so that the last country in the group will still desire a trade agreement with the United States after the concessions granted to the other countries have been generalized to it, but also avoid subjecting domestic producers to unexpected competition from countries other than that entering into the trade agreement. At the same time, countries which reciprocally extend to us most-favored-nation treatment, but with which we have not yet made trade agreements, have in fact already derived considerable advantage as a result of trade-agreement concessions generalized to them.

Congress stipulated in the Trade Agreements Act that this policy should be followed because it is highly advantageous to this country. By means of the bargaining leverage which it provides through the power to withhold the extension of concessions to nations discriminating against us, the United States is enabled to secure for American exporters the benefit of all tariff reductions made to third countries by countries to which we generalize trade-agreement concessions. Thus our products are assured of uninterrupted equality of tariff treatment in the markets of practically every country in the world.

(*c*) *The "Conditional" Most-Favored-Nation Policy.* Another widespread misunderstanding as to the meaning of the most-favored-nation policy in connection with the trade-agreements program arises from a confusion of terms. The most-favored-nation policy may be applied in either the "unconditional" or the "conditional" form. The difference between these can best be illustrated by a concrete example. Suppose that in a trade agreement between the United States and Canada, the United States, in exchange for Canadian concessions, agreed to lower its tariff duty on distilled spirits. Under the "unconditional" most-favored-nation policy, the United States would thereupon extend the same tariff reduction to distilled spirits from all countries which grant full equality of treatment to American products. Under the "conditional" most-favored-nation treatment, the United States would not grant the reduction to any other country unless it "paid" for it by giving to the United States exactly the same concession as that given by Canada, or an equivalent one. In other words, the United States would give to Canadian distilled spirits a preference that would be exclusive unless and until other nations sufficiently interested paid

for it a price equivalent to what Canada paid. This latter policy is termed the "conditional" most-favored-nation policy because it consists in extending to other nations a concession previously given only *on condition* that each nation pay for it the same price (or an equivalent one) as that paid by the nation originally receiving it.

The practical difference, therefore, between the "unconditional" and "conditional" most-favored-nation policies is this: In the former, a sweeping and blanket exchange is effected, each nation granting to the other and receiving from it in exchange every concession which has been made, or may in future be made, to any other nation; in the "conditional" policy, only such concessions are promised or exchanged as are paid for piecemeal by the same or equivalent "prices."

The impracticability of the "conditional" most-favored-nation policy stands out in sharp relief. In the hypothetical example cited, it would be impossible to say precisely what exact price Canada had paid for the concession on spirits; in a trade agreement, a whole bundle of concessions on one side is exchanged for a whole bundle of concessions on the other. In actual practice, under the "conditional" policy a nation would be free to refuse to grant valuable concessions whenever it so desired, by the simple expedient of declaring that the price offered was not the same or an equivalent. In fact, the relations between nations are so widely disparate that no two can offer precisely the same price. What is of immense value to one may be quite valueless to another. In actual practice under modern conditions, therefore, the "conditional" policy does not constitute a guarantee of genuine equality of treatment.

The economic weaknesses of the "conditional" policy are equally manifest. It necessitates a piecemeal bargaining and successive series of payments to obtain concessions which under the "unconditional" most-favored-nation policy are secured wholesale in a single easily negotiated bargain applying to future as well as to past concessions. Since the "conditional" policy necessitates continuous and never-ending negotiations in the effort to find an acceptable "price" for each new concession that may be granted by the other country, American exports under such a policy would be left exposed to discrimination throughout the period of these successive detailed negotiations; and during this period the favored competitor would be entrenching himself in the other country's

markets. Even in respect of those commodities for which a price had already been paid, the "conditional" policy, unlike the "unconditional" one, would leave American producers for export without secure protection from foreign discrimination, since the advantages gained in a "conditional" agreement could always be undercut by the grant of still greater concessions on the same products to other countries. As a result, concessions bought and paid for under the "conditional" policy would have at best only a temporary value.

The "conditional" form of the most-favored-nation policy, therefore, as applied to tariff practices, is manifestly impractical and unsatisfactory. It involves negotiations which are not only increasing and difficult, but quite unnecessary and often costly. It is likely to lead to "padding" of tariff rates and heightening of trade barriers. It fails to protect producers for export from foreign discrimination. It was definitely and finally rejected by the United States through the action of Secretary Hughes in 1923. And it is no longer advocated by practical statesmen in this country, or by economists.

IV. COMPARATIVE MERITS OF THE TWO ALTERNATIVE POLICIES[5]

The practical alternatives open to the United States today are (a) a policy of bargaining in exclusive preferences and (b) a policy of equality as embodied in the most-favored-nation practice in its unconditional form. From the viewpoint of the realist, what are the actual advantages and disadvantages of each?

For at least five outstanding reasons, the United States, if it is to expand its foreign exports and attain its fundamental objectives, must adhere to and champion the unconditional most-favored-nation policy.

1. The Policy of Preferential Bargaining Is in Its Very Essence a Policy of Discrimination and Economic Conflict. In the first place, every exclusive preference constitutes in its very essence discrimination against all other nations. And discrimination inescapably leads to retaliation and mounting trade barriers, since nations whose income and whose economies are dependent upon the sale abroad of their surplus products cannot remain passive if these sales are menaced or prevented by preferences granted to their

[5] In the following discussion, whenever the most-favored-nation policy is referred to, the meaning is the policy in its unconditional form.

competitors or by discriminations directed against them. Such a policy makes for sudden arbitrary and uneconomic shifts in the currents of trade, for unending business uncertainty and instability, for bitter struggles to gain diminishing foreign markets, for tariff warfare and increasing economic conflict. Upon such foundations, no peace can ever be made secure. The only practical way for the United States to obtain its objectives of (a) increased markets for national surpluses and (b) world peace is through the unconditional most-favored-nation policy.

2. American Exports Cannot Secure Adequate Protection Except Through the Most-Favored-Nation Policy. In the second place, American exports cannot secure adequate protection in foreign markets except through the most-favored-nation policy. Under a policy of discriminations for and against American products, American producers and exporters can be stripped of their foreign markets overnight and find themselves and their government powerless to prevent it.

How practical the benefits of trade agreement provisions exchanging guarantees of non-discrimination really are can best be illustrated by one or two concrete instances. Many French tariff duties vary from minimum rates through intermediate to maximum rates, depending upon the position enjoyed by the exporting nation. Prior to our French trade agreement, United States exports were compelled to pay maximum French rates with respect to hundreds of tariff positions and intermediate French rates with respect to several thousand other positions. By virtue of the most-favored-nation provisions in the trade agreement, we obtained minimum tariff treatment with respect to the entire French tariff structure, apart from a few exceptions relatively unimportant to American trade.

The Canadian trade agreement of 1936 offers another example. By virtue of the most-favored-foreign-nation pledge in that agreement, American products immediately gained the advantage of lower Canadian tariffs with respect to approximately 600 Canadian tariff items. Among this large number of products, which had for years been paying higher Canadian duties than similar products from France and certain other countries, were many important American agricultural and industrial exports. Together, they accounted in the past for about 30 per cent of total Canadian imports from the United States.

Furthermore, through no policy other than the unconditional most-favored-nation one can American producers for export be guaranteed against discrimination with respect to concessions granted by other nations in future agreements. This also is of immense value to American producers. As has been pointed out, what strikes injury to every business is discrimination in favor of others. Genuine protection comes with equality of treatment. For example, prior to May 1, 1935, when the trade agreement between the United States and Belgium went into effect, the Belgian duty on typewriters weighing less than 50 kilograms was 2,012½ francs per 100 kilograms. The trade agreement reduced this duty to 1,500 francs. A few months later, an agreement between Belgium and Germany reduced this duty to 1,150 francs. Therefore, under the most-favored-nation clause of our trade agreement with Belgium, American exporters immediately, and without any demand, received the benefits of the duty as lowered by the German agreement. American manufacturers of typewriters not only are protected in the Belgian market against underselling by German exporters, but also gain positive advantages. This is but one of hundreds of instances in which the most-favored-nation clause has proved its practical value.

3. The Abandonment of the Most-Favored-Nation Policy Would Be in Conflict with American Treaty Obligations. At the time when the Trade Agreements Act was passed, the United States was a party to most-favored-nation treaties and executive agreements with 47 countries. The majority of these instruments pledged the United States to grant most-favored-nation treatment unconditionally. If the policy of exclusive preferences or the conditional most-favored-nation policy had been adopted in the Trade Agreements Act, all of these unconditional most-favored-nation obligations would have had to be terminated. Had this been done, our exports would have been deprived of legal protection in every country against which action was thus taken and would have been rendered highly vulnerable in all countries to the widespread retaliation which the subsequent refusal to extend the trade agreement concessions would have invited. Under such a policy, the only way to win back the protection against discrimination thus lost would be to buy it piecemeal for every commodity concerned—a difficult and costly process, which at best would leave American exports unprotected until each piecemeal bargain could be struck.

At the present time, the United States is a party to more most-favored-nation treaties and executive agreements than when the Trade Agreements Act was passed.

4. A Policy of Preferential Bargaining Is Highly Incompatible with the Interests of any Country Substantially Dependent upon Triangularity of Trade. A large part of the trade of the world is carried on, not by bilateral exchange of goods, but by triangular or multiangular process whereby a nation sells to one country and buys from another through the medium of money or foreign exchange. For instance, the United States sells raw materials and foodstuffs, such as cotton and hog products and wheat, to European countries far in excess of the European products, largely manufactured goods, which the United States desires in return. Europe, needing these American raw materials, uses them in European factories and mills and sells them to third countries, such as Brazil and other Latin American states. These in turn sell tropical products, such as coffee, to the United States of a value considerably in excess of the goods from the United States which they desire to buy. As a result, the United States normally sells to European countries considerably more than it buys, European countries normally sell to certain tropical countries considerably more than they buy, and these tropical countries in turn normally sell to the United States considerably more than they buy. Manifestly, any trade restriction which forces a bilateral balancing, i.e., an equalization in value of merchandise exports and imports as between two separate nations, cuts squarely across the flow of triangular trade and injures every nation substantially dependent upon such trade.

The policy of bargaining in exclusive preferences is almost inescapably coupled with "bilateral balancing." Under such a policy, each nation, in the effort to increase its exports, seeks to compel every other nation to buy from it as much as it buys from the other nation—in other words, to equalize the value of its merchandise imports and exports with each separate nation. Germany is the outstanding exponent of such a practice.

Bilateral balancing strangles international trade. It is characterized by compensation and clearing agreements, by uneconomic, constantly shifting channels of trade, by growing international conflict and struggle.

For the United States, such a policy would be suicidal. Its inevitable tendency is to kill triangular trade; and upon the maintenance and increase of triangular trade American vital interests depend. The only realistic commercial policy that meets practical American needs is one which aims to keep the channels of trade open to all countries on equal terms, i.e., a policy of unconditional most-favored-nation treatment.

5. The Most-Favored-Nation Policy Is Essential for the Promotion of World Trade and the Building of Secure Foundations for World Peace. There are reasons still more fundamental why the United States should adopt and aggressively struggle for the dominance throughout the world of the unconditional most-favored-nation policy. Economic recovery in every nation waits upon increased trade, and increased trade waits upon reduced international trade barriers. A policy of bargaining in preferences inescapably means heightening trade barriers and increasing economic conflict. On the other hand, the alternative policy of most-favored-nation treatment means a continual and world-wide reduction of trade barriers; for every concession made to a single nation means a similar reduction to all nations which themselves keep free from discrimination. The former policy, therefore, spells the unceasing contraction of world trade; the latter spells its unceasing expansion. And only through the promotion of world trade as a whole can each individual nation prosper.

The issues at stake are momentous. If nations can find no practicable method of turning aside from present practices which make for increasing economic nationalism, uneconomic diversions of world trade, arbitrary and injurious restraints, there can be but one result. Such measures inescapably lead to economic deterioration and world-wide conflict. The world today is in too perilous a state to risk further conflict. It is for peace-loving America, with its incomparable natural resources, its intelligent population, and its economic strength, to lead the way in a program of economic liberalization and deliverance; and upon no other policy than that of equality of treatment can such a liberalizing program be based. America could not be true to her traditions and follow any other course.

"GOVERNMENT," "LAW," AND THE SEPARATION OF POWERS

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I. THE FALLACY UNDERLYING THE RULE AGAINST THE DELEGATION OF LEGISLATIVE POWERS

The continued growth of administrative agencies exercising legislative and judicial (or, if one prefers, "quasi-legislative" and "quasi-judicial") powers furnishes a constant inducement to re-evaluate the separation of powers theory. In a general way, the theory is admittedly hostile to this development as involving an inordinate concentration of power in the executive. Accordingly, we are presented with the problem of whether governmental practice should be accomodated to the theory or the theory revised to fit practice.

Of course the pressure of circumstance has already made a considerable impression on doctrinal exposition. Thus it is not seriously contended that the delegation of *any* rule-making power to administrative agencies is necessarily a delegation of legislative power within the meaning of the doctrine.[1] Nor is it seriously contended that the right of such agencies to conduct a trial and come to a formal judgment thereupon is necessarily a delegation of judicial power—again within the meaning of the doctrine.

But there is still determined doctrinal opposition to the delegation of so much rule-making power as amounts to a "policy-making" discretion,[2] or of so much order-making power as to invest the determinations of administrative agencies with finality against

[1] It should be noted, however, that Professor J. P. Comer insists that rule-making power *is* equivalent to legislative power. He sees a violation of separation of powers wherever such a delegation has occurred. Cf. his valuable study *The Legislative Functions of National Administrative Authorities* (Cambridge, 1932). Professor James Hart, on the contrary, follows the Supreme Court in reconciling the delegation of subordinate rule-making with the doctrine. Cf. *The Ordinance-Making Powers of the President* (Baltimore, 1925). The Supreme Court itself has had its difficulties in determining what "legislative" means, and no one is likely to contend that any consistent definition illumines the reports. Cf. Charles Aikin, "The Nature and Exercise of Legislative Power," *Georgetown Law Journal*, Vol. 26, pp. 606–636.

[2] Panama Refining Co. v. Ryan *et al.*, 293 U. S. 388; Schechter Poultry Corp. v. U. S., 295 U. S. 495; Carter v. Carter Coal Co., 298 U. S. 238. The periodical literature on the subject of delegated legislative power since these decisions has become a formidable commentary. For purposes of the present paper, it is not necessary to inquire into the judicial definition of a bad delegation.

the regular courts.[3] As respects the second of these prohibitions, it is not necessary to raise any question at this point. The courts must be able to review administrative judgments if traditional common-law attitudes are to be brought to bear upon both the substance and procedure of government. The devotion of the courts to this traditional law provides some assurance that the ideal of justice in the particular case, rather than anxiety to "get things done," will motivate the decision of disputes to which the government is really a party.[4] Moreover, judicial review of administrative judgments normally affords the courts their only opportunity to inquire into the legality of the statutory rules and regulations under which administrative action has been taken. It is a fair assumption that this type of judicial review is important from the standpoint of individual liberty, and this aspect of separation-of-powers dogma thus seems roughly consistent with the professed *raison d'être* of the entire doctrine.

It is far from clear, however, that the separation of powers has the same practical justification when it is used to invalidate acts of Congress because they confer too much rule-making discretion on administrative authorities. Congress is itself subject to judicial correction for depriving any person of life, liberty, or property without due process of law, and any administrative action taken under authority of Congress is necessarily subject to the same restraints. Thus, an act of Congress may be struck down because it purports to confer authority to do what Congress is forbidden to do; or, if the authority conferred is ambiguous, the Court may

[3] There is even more difficulty in determining what constitutes the essential judicial power which cannot be delegated than in determining what constitutes the essential legislative power. It is clear, however, that the Supreme Court would never permit Congress to insulate any administrative decision on matters of "law" from judicial review. To what extent questions of fact may be adjudicated finally by an administrative agency is debatable. Cf. Tollefson, "Administrative Finality," *Michigan Law Review*, Vol. 29, pp. 839–849; Blachly and Oatman, *Administrative Legislation and Adjudication* (Washington, 1934). The best discussion of the whole subject is still Ernst Freund's *Administrative Powers over Persons and Property* (Chicago, 1925). Recent congressional legislation tends to adopt the formula of the Federal Trade Commission Act which excludes the Commission's findings of fact from judicial review if they are supported by "substantial" evidence. On the other hand, the American Bar Association's Committee on Administrative Law regards a complete review of the facts as also essential, and this view seems to have been adopted in the recent (1938) New York constitution.

[4] Cf. John Dickinson, *Administrative Justice and the Supremacy of Law* (Cambridge, 1927), where this point is eloquently urged.

depend its decision as to constitutionality on the use made of the authority by the administration. Why, then, should the courts insist that Congress should adhere to any particular standard in the distribution of work between itself and its administrative agents?

The answer usually given to this question is that the independence of the legislature from the executive must be preserved—even, it appears, against the wishes of the former.[5] There are reasons to suspect that this unsolicited concern for the legislature is not altogether sincere, and these will appear to best advantage if we first expose the historical fallacy of dividing government into independent policy-making and policy-executing branches. We may then go on to show why, despite the lack of any natural division between these two parts of government, courts continue to talk as if the legislative power is threatened by wide delegations to the executive.

It is an old story that Montesquieu misread the British constitution when, in the years 1728–48, he ascribed British liberties to a division of power between three departments. His most obvious error was his failure to take account of the Revolution of 1688 paving the way for a degree of parliamentary control over the executive which ultimately vested the authority of the crown in a committee of the House of Commons. Thus, even at the time when he wrote, the authority of the crown was indirectly the authority of a parliamentary majority testifying to the integrity rather than the division of government. But this was the least serious of his errors. *L'Esprit des Lois* is quite as misleading as a description of the old, pre-revolutionary constitution as it is of the modern constitution. While it is true that Parliament and king did enjoy a certain independence[6] of one another during the long struggle for

[5] This is the separation-of-powers argument against delegation. The other technical argument is founded on the private law maxim, *delegata potestas non potest delegari*. The claims of this maxim to any legitimate public law application have been thoroughly exploded in Duff and Whiteside, "Delegata non potest delegari," *Cornell Law Quarterly*, Vol. 14, pp. 168–196. See also G. K. Ray and Harvey Wienke, "Hot Oil on Uncharted Seas of Delegated Powers," *Illinois Law Review*, Vol. 29, pp. 1021–1040; John D. McGowan, "An Economic Interpretation of the Doctrine of Delegated Power," *Tulane Law Review*, Vol. 12, pp. 189–199. In the popular mind, the danger of dictatorships is another argument against delegation. Of course dictatorship depends on the fact of subservience to the dictator. A delegation of wide powers is never in itself evidence of subservience, nor is the absence of delegated power in itself evidence of freedom.

[6] The qualification must be made to take account of the formal constitutional theory under which all public acts are in the name of the Crown.

supremacy, this struggle was not between a policy-maker and a policy-enforcer. It was a contest between an executive whose function was to *govern*[7] and a feudal assembly or court whose function was to declare the law.[8]

When, as a result of the revolution, Parliament took over the governing powers of the king, the professional courts succeeded to the old function of Parliament, and in this capacity the courts enjoy today a *de facto* independence of the political institution in Great Britain. Accordingly, we may say that there were only two independent organs under the old constitution, as there are now only two under the modern constitution. In both periods, the functions juxtaposed were government and law, but Parliament appears as the representative of law in the first context and as the representative of government in the second. For the superficial observer, this metamorphosis of Parliament may well obscure the fundamental continuity of institutional oppositions upon which British liberties depend.[9] Montesquieu *was* a superficial observer, and he had the added misfortune to look at the British constitution at a time when identification of organs and functions was most difficult because the courts came on the scene as the representatives of law before Parliament had absorbed the governmental power

[7] Cf. F. W. Maitland, expressly rejecting the term "executive" as well as the term "administrative" to describe the power of the king. *Constitutional History of England* (Cambridge, 1920), p. 196. "Executive" is, of course, an essentially ambiguous word. It may mean the power of governing, as when applied to a medieval monarch; it may mean the function of acting as the agent of the governing authority, as applied to a modern cabinet; it may mean both, as applied to the American president. Cf. John A. Fairlie, in *Essays on the Law and Practice of Governmental Administration* (Baltimore, 1935), pp. 16 ff. The struggle over the meaning of executive power in American constitutional law is summarized in E. S. Corwin, *Twilight of the Supreme Court* (New Haven, 1934), pp. 123 ff. The confusion which results when separation-of-powers terms are used without appreciating their ambiguity is well illustrated by the remarks of Mr. Justice Sutherland in Rathbun v. United States, 295 U. S. 602.

[8] Cf. C. H. McIlwain, *The High Court of Parliament*, for the classic exposition of the judicial character of the medieval Parliament. Cf. also T. F. T. Plucknett, *Statutes and their Interpretation in the First Half of the Fourteenth Century*, pp. 47 ff., and C. K. Allen, *Law in the Making* (Oxford, 1927), pp. 250–254.

[9] I have no wish to disparage those other institutional oppositions which have also been important in protecting liberty. Cf. Walter Lippmann, *The Method of Freedom*. But these other oppositions—such as that between church and state, and that between the various social classes under the mixed constitution—are no longer effective. The opposition between *dominium* and *imperium* is closely related to that between law and government.

of the king. Temporarily, there *were* three more or less independent organs; but the task of finding three independent functions to fit them was too much for better men than Montesquieu. The result was that he gives us a weak rationalization of anachronisms which he utterly failed to appreciate as such.[10]

In any long range view of the situation, there never has been any division of power in Great Britain between those who make and those who execute policies. The king once made policies and directed their execution, just as now does Parliament. Accordingly, it is historical fiction of the worst sort to accuse British political genius of evolving any such disunion of legislative and executive powers as Montesquieu's theory implies.

II. THE REAL INTEREST PROTECTED BY THE RULE AGAINST DELEGATION OF LEGISLATIVE POWERS

The foregoing brief survey may serve to expose the pretensions of a theory purporting to translate the spirit of the British constitution into a division of legislative and executive powers.[11] But it does not explain why Anglo-Saxon lawyers and courts should have been so concerned to perpetuate the illusion created by Montesquieu. The answer here lies in the dilemma faced by the common law courts when Parliament withdrew its support from the common law as a declarer thereof and assumed the mien of a sovereign maker of law in the process of governing. The first very natural

[10] Montesquieu really makes only one abortive attempt to define the functions that he intends to separate. For the rest, he is content to describe the various things that he thought the independent departments did. It would have helped had he distinguished between an analysis of technical functions of government and the setting up of equal organs of government. Cf. M. P. Sharp, "The Classical American Doctrine of the Separation of Powers," *University of Chicago Law Review*, Vol. 2 pp. 385–486; Herman Finer, *The Theory and Practice of Modern Government* (London, 1932), Vol. 1 at p. 154; James T. Brand, "Montesquieu and the Separation of Powers," *Oregon Law Review*, Vol. 12 at p. 80; G. H. Sabine, *History of Political Theory* (New York, 1937), at p. 559. In addition to all this, Montesquieu confuses the separation of powers with the mixed constitution. Cf. F. G. Wilson, "The Mixed Constitution and the Separation of Powers," *Southwestern Social Science Quarterly*, Vol. 15, pp. 1–16.

[11] The complete dependence of the separation-of-powers theory on the British model is admitted by Continental authorities. Cf. A. Esmein, *Éléments du droit constitutionnel* (8th ed., Paris, 1928); Marcel de la Bigne de Villeneuve, *La Fin du principe de separation des pouvoirs* (Paris, 1934). As to the originality of Montesquieu, see Max Radin, "The Doctrine of the Separation of Powers in the Seventeenth-Century Controversies," *University of Pennsylvania Law Review*, Vol. 86, pp. 842–866.

reaction of the courts was to suggest that the common law might control acts of Parliament and adjudge them void.

This position was logically sound in that it involved a concept of law consistent with the technique of interpretation employed by the courts. But politically it was not tenable, because it would have subordinated the representative assembly to the judiciary. As a consequence, the courts had to attorn to the positive law of Parliament as their acknowledged norm. As is often pointed out, they did not do this too gracefully, and the implied reproach is in part justified because, once the will of a mundane superior has been accepted as law in its own right, it is quite unreasonable to qualify the application of it with such ambiguous doctrines as that "statutes in derogation of the common law should be interpreted strictly."[12]

On the other hand, the danger to the fundamental constitutional position of the courts was very real. The positive law of Parliament was becoming more and more clearly the medium for the exercise of governmental regulatory authority. Unless, therefore, the courts could somehow infuse the statute with the spirit of the common law,[13] no conservative offset to the dynamic drive of government would be provided. Open defiance of Parliament by the courts was, of course, out of the question. So too, as a matter of fact, became the less patently recalcitrant doctrine that statutes in derogation of the common law should be interpreted strictly. More circuitous methods of tempering the impact of parliamentary sovereignty had to be found.

The first method was simply to discourage legislative activity. The common lawyer's attitude was that Parliament ought to confine its "contribution to the law"[14] to occasional reforms in the

[12] Cf. Thomas I. Parkinson, *Cases and Materials on Legislation* (New York, 1934), for a good selection of cases showing the use of common law preconceptions in the interpretation of legislation.

[13] It is this ideal of judicial interpretation that justifies English and American writers on jurisprudence in defining law in terms of what the judges do—for example, Sir John Salmond and Professor J. C. Gray—but to turn the judges into an Austinian sovereign, as the latter inclines to do, is an unjustifiable simplification. What is actually happening is the application of institutional or traditional law ideas in the interstices of positive law. Cf. F. M. Watkins, *The State as a Concept of Political Science* (New York, 1934), where this translation of the struggle between law and the state is fully appreciated.

[14] An ambiguous euphemism similar to "source of law" as a description of legislation. Actually, the allegiance of the legal profession in this country and England is to a different *kind* of law than legislation. From this standpoint, legislation should

private law (when called on by the courts) and occasional amendment of the law of generic crime. Thus a wide field for judge-made law would be assured, and when Parliament *did* legislate, the process of enforcement would remain secure in the hands of the courts. This could be counted upon, because, in the case of amendment of the private law, no bureaucratic intervention at all was required, and, in the case of amendment of the general criminal law, bureaucratic intervention was kept at the level of the town constable.

It has not, however, been possible to confine the modern legislature to this comfortably conservative use of its power. Rather, it has undertaken to regulate the conduct of the citizen on a very comprehensive scale, and this has involved the reliance of the legislature on a highly organized bureaucracy at the same time that it effectively destroyed that detachment from the business of government which the theory of *laissez faire* sought to cultivate. The natural tendency of this development is toward the practical substitution of these administrative agencies for the courts in the interpretation of legislative intent. That is, such wide discretion to make subordinate rules on behalf of the legislature will be granted that the act of the legislature cannot be used by the courts to control administration. In order to "head off" this development, the courts have had to discredit the executive as a fit subject for legislative confidence. This, therefore, is the second, and currently most effective means of securing judicial dominance in administration at the expense of the legislature while paying lip service to its authority.

Thus we arrive finally at the reason why courts are concerned to prevent a delegation of "legislative power" to the executive. It is because a delegation of so-called legislative power is a disturbing intimation that the legislature prefers administrative to judicial interpretation of its general commands. And when the courts insist that the legislature should not abdicate its power, they do not protect the legislature from itself, because there is no basis for

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be described as merely an exercise of authority under, or according to, law. Albert Kokourec marks the dualistic phenomenon of practicing an imperative theory of law and nature and believing in a metaphysical law of nature: "Justice, and its companion term, Reason, have long been established as the inviolable and transcendant arcana of positive law." Trans. intro. to Miraglia, *Comparative Legal Philosophy*, p. xiii.

fear that the executive will pervert such intent as the legislature has.[15] The real danger is that legislative resolution will be "sicklied o'er with the pale cast of [judicial] thought" as the judges mould the letter of statute to accord with certain common law preconceptions which the legislature is not likely to share.[16]

Of course there are those whose thinking is still colored by the great constitutional controversies of the seventeenth century in which Whig historians have ranged the common law courts and Parliament together as exponents of law and democracy in common cause against the absolutism of an irresponsible crown. Such persons are naturally loath to admit that the legislature has so far parted company with the courts that they no longer share the same background of legal, as distinct from governmental, purpose. Yet when we recall that the modern legislature has relatively little to do with law, as distinct from government, legislation,[17] and that the modern executive is really an integral part of the legislature, it is futile to suggest that the old affinity between courts and legislature still persists. Judicial interpretation of government legislation practically always introduces a foreign element of legalism to which the legislature is as much opposed as the executive.[18] Certainly one may urge that this situation is unfortunate, and that the legislature should give up the business of direct regulation in order to concentrate on revision of the private law rights and duties of individuals.[19] Moreover, it is reasonable to believe that concern with private law legislation would do much to revive the

[15] Whenever such a course has been possible, legislatures have usually hastened to ratify the particular exercise of authority by the executive which gave rise to the controversy. Typical of the legislative reaction in such cases was the action of Congress in rushing through the Connally bill embodying the content of the executive order nullified by the Supreme Court in the "hot oil" case.

[16] It need not be asserted that this is conscious or deliberate on the part of the judges. On the other hand, there are entirely too many instances of conservative bias in judicial interpretation of statutes to blame everything on defectiveness of legislative draftsmanship. Professor Laski's retort to the complacent majority of the Sankey Committee on this point is excellent. *Report of the Committee on Ministers' Powers* (London, 1932), pp. 135–137.

[17] Cf. Ernst Freund, *Legislative Regulation* (Chicago, 1932), Chaps. 1 and 2, for the distinction between regulatory and declaratory rules and that between law legislation and government legislation.

[18] The legislative draftsman tends to regard the courts as an unsympathetic critic whose technique of interpretation must be mastered in order to forestall emasculation of his work. Cf. Robert Luce, *Legislative Problems*, pp. 38–39.

[19] This is Walter Lippmann's well argued thesis in *An Inquiry into the Principles of the Good Society* (Boston, 1937).

judicial attitude in the legislature. But this seems an extremely unlikely development: private law legislation is now, and seems likely to be even more conspicuously in the future, an exceptional and even anomalous part of the legislature's duties.

Criticism of the proposition here advanced that the relationship between the legislature and the executive is much more intimate than that between the legislature and the courts may be expected also from another angle. Thus it may be urged that the tremendous administrative authority once enjoyed by the courts as agents of the crown proves that there is nothing inconsistent with good administration in giving judges general superintendence over administrators. It is true that the twelfth century *Curia Regis* was primarily administrative, and that the king's justices were the most effective consolidators of royal power in the land. Moreover, the maintenance of administrative discipline through the use of the prerogative writs was a very important part of their duties. However, these same justices gradually developed the common law of the king into a common law of the realm which, as fundamental law, came to define the boundaries of prerogative. And this allegiance to a law above the king, plus the preoccupation of the courts with the private law controversies of subjects, came to impair their efficiency as agents of administration. Indeed, the fact that the parent Council had to throw off subsequent offshoots dedicated, not primarily to law, but to government or policy, is eloquent evidence of this. First equity, then Star Chamber and High Commission, appeared to meet the demand of administration for speed and vigor. Furthermore, it is safe to say that the common law courts never would have survived to play their dominant public law rôle in the eighteenth and nineteenth centuries had it not been for certain political accidents.

The force of the Puritan revolution against a peculiarly incompetent dynasty (which had become identified with monopoly) discredited government itself as a dynamic force in politics.[20] In striking at a serious abuse of government, the law courts were incidentally confirmed in the exercise of so much governmental

[20] Equity escaped the axe of the Long Parliament only by succumbing to the paralysis of law in 1603, Star Chamber and High Commission were abolished, and the possibility of further use of prerogative to curb the courts was forever foreclosed. The common law courts inherited much of the jurisdiction formerly exercised by the prerogative courts. For example, the Star Chamber's jurisdiction on seditious libel fell to the Court of King's Bench.

authority that an integrated administration became impossible. Instead of relying upon a centralized internal system for the maintenance of administrative discipline, the Anglo-Saxon countries have had to rely upon the adjudication of suits brought by private citizens to establish the definition of official powers. Whatever may be said for this system from the standpoint of the Rule of Law, it cannot be claimed that it is an efficient method from the standpoint of government.

III. THE KINDS OF JUDICIAL CONTROL NECESSARY TO MAINTAIN THE RULE OF LAW IN ENGLAND AND THE UNITED STATES

The moral to be drawn from the preceding discussion is not necessarily that the courts should be condemned for seeking to retain a dominant position in administration. This will depend upon whether some other less stultifying method of giving expression to the traditional law is open to them. And here the situation is radically different in the United States from that in England. In England, the courts cannot contemplate their exclusion from control over administration without giving up the right to express common law prejudices against the exercise of arbitrary authority. Hence, we must conclude that the Rule of Law faces a more serious crisis there than its most eloquent defenders seem to appreciate. It is not only the tendency of Parliament to grant wide discretion to administrative agencies, but the fact that Parliament is following a sound instinct in so doing, which gives occasion for pause.

Of course the problem of securing a review of administrative judgments must be distinguished from that of securing a review of administrative rule-making. It is relatively easy to convince Parliament that the former is desirable, because this is largely a matter of eliminating the personal bias likely to creep into administration when the judge and prosecutor are subject to the same political control.[21] But administrative rule-making is simply legislative policy implemented in minute detail by the direct agents of the legislature. There is very little to indicate that Parliament is likely to abate its growing practice of insulating administrative rule-

[21] On this point there is substantial agreement between supporters and opponents of administrative adjudication. Even the former (e.g., W. A. Robson, *Justice and Administrative Law*, London, 1928) look to "judicialization" of administrative tribunals as a condition precedent to attaching any degree of finality to administrative decisions. There is almost as much "protest" literature on administrative justice in England as there is in the United States.

making from judicial control.[22] In other words, the impartiality of the judge as an official of unquestioned personal integrity and with a protected tenure can be availed of by government without prejudice to policy. But the services of the judge as an official steeped in the learning of a traditional law can well be dispensed with.

Happily, we in America are not confronted with the same threat to the Rule of Law. With us, it is quite unnecessary for the courts to step between the legislature and the executive in order to exert a constitutional check upon government. The written constitution furnishes a text which they can claim an exclusive right to interpret without pushing a dubious claim to perform the same function for statutory enactment. Thus, the American judiciary is not forced to defend a strategically untenable position for the sake of the prestige of law or the protection of liberty. The doctrine of the non-delegation of legislative power may well be recognized as a corrupt gloss on the constitution and a peculiarly bad application of an ill-conceived theory.

There is one caution which should be observed in connection with this conclusion: It is not intended to imply that, as a matter of policy, the legislature should never rely upon the regular courts to control administrative rule-making. Nor is it suggested that the present organization of administrative rule-making is satisfactory. The point is that in the face of an undoubted intent of the legislature to deprive the courts of the means of controlling administrative rule-making in the name of the legislature, the courts should not object. This should be no part of the independent judicial function in America. The courts need only insist that whatever is done in the name of the legislature be subject to the limitations imposed upon the legislature itself under the constitution.

IV. THE EXTENT OF JUDICIAL CONTROL NECESSARY TO SECURE A BALANCE BETWEEN LAW AND GOVERNMENT

There is a further question which can hardly be avoided in any discussion of the constitutional balance between law and govern-

[22] Cf. John Willis, *The Parliamentary Powers of English Government Departments* (Cambridge, 1933), for a good description of the methods used by Parliament to this effect. Cecil Carr's book, *Delegated Legislation*, is still useful for a view of the extent of statutory rules and orders. A tribunal of conflicts on the Continental model is the answer of W. O. Hart in "Administration and the Law," *Public Administration*, Vol. 14, pp. 301 ff.

ment in the United States, namely, whether the courts need as much power in relation to government as they claim under the modern theory of judicial review—even if we exclude the right to prevent the legislature from delegating power to the executive. It requires considerable temerity to venture upon these recently troubled waters, but perhaps the fact that the problem is rarely approached from the standpoint of a balance between law and government under the Constitution may justify a few observations.[23]

The orthodox conservative defense of judical review discounts the significance of judicial interpretation of the Constitution in order to conclude that the judges merely make explicit what is already implicit in the formal language of the document. For those who hold to this point of view, the judicial process is simple (and well-nigh automatic) enforcement of a sovereign will: it is not the judges who control Congress; it is the Constitution.

Aside from the naïvete of this position, it obviously makes it impossible to see the judiciary as the representative of an institutional law, and there is consequently no point in talking about a balance between legal and governmental interests under the Constitution.

On the other hand, the usual attack on judicial review overemphasizes the significance of judicial interpretation, in that it is the judges as individuals—or, at best, as class-conscious craftsmen—who are credited with real constitution-making. Judicial interpretation is seen as the vehicle for the expression of the economic and political philosophies of the judges. Thus, in this case too, the institutional significance of the judicial function as the expression of certain general social interests in stability and certainty is overlooked[24] and judicial review is uncompromisingly rejected as judicial oligarchy.

There are some encouraging signs of a more realistic approach to the problem than either of the above conceptualizations permits. For instance, it is sometimes frankly recognized that judicial inter-

[23] It is sufficient to express a general obligation to the writings of Charles A. Beard, E. S. Corwin, and C. G. Haines on this subject.

[24] When it is asserted that judicial review protects "vested interests," the usual inference is that this interest is peculiar to a small minority group. Cf. H. W. Edgerton, "The Incidence of Judicial Control over Congress," *Cornell Law Quarterly*, Vol. 22, pp. 299–348. The security of transactions and acquisitions is of interest to everyone.

pretation of the Constitution *is* the constitution for all practical purposes, that the Constitution changes as and when the judges "change their minds," and that the judges change their minds, not arbitrarily, but in accordance with a certain technique of decision which is of the essence of the common law.[25] But along with this commendable realism goes the conclusion that this conservative type of judicial control is a wholly desirable thing, and that Congress ought to be powerless against the conservative predilections of common law judges: if Congress is right, the judges can be counted upon to embrace the congressional point of view in their own good time; if Congress is wrong, it is better to have the judges nip the ill-conceived plan in the bud than to have to wait for bitter experience to demonstrate the fact.

This argument would justify a "cultural lag" of almost indefinite extent while the Supreme Court makes up its mind whether to follow Congress in the latter's interpretation of the Constitution. Moreover, when it is once admitted that the Constitution is essentially a common law, or judge-made, constitution,[26] an absolute judicial veto on congressional enactment is clearly the symbol for judicial supremacy. In fact, it is hard to see how those who object to the English system because it involves *legislative* supremacy can deny that our system involves an equally one-sided dominance of the judiciary.[27]

What seems to be required in our case—if a more nearly balanced relationship is to be secured—is more flexibility in judicial inter-

[25] Cf. Dean Alfange, *The Supreme Court and the National Will* (New York, 1937), where the rôle of the judges as statesmen is a little over-emphasized at the expense of the technical considerations which *do* place more restraints on freedom of decision than he admits. See W. F. Dodd's review of the book in *University of Pennsylvania Law Review*, Vol. 86, pp. 324–326.

[26] This refers, of course, to the parts of the Constitution which enunciate principles rather than those parts which deal with specific quantities. The principles as expounded by the courts constitute as much of a "natural law" as if the Supreme Court had adhered to the early and tentative doctrine that natural justice and reason might warrant it in refusing to enforce an act of Congress despite the absence of relevant constitutional provision. Cf. Douglas B. Maggs, "The Constitution and the Recovery Legislation: The Rôles of Document, Doctrine, and Judges," in *Legal Essays in Tribute to O. K. McMurray*, ed. by Radin and Kidd (Berkeley 1935), pp. 399–438.

[27] Professor A. L. Goodheart is right when he says: "The legislative sovereign having been killed in the United States, the legal sovereign succeeds to his throne. Law is no longer what the supreme legislature commands, it is now what the supreme judge does." *Modern Theories of Law* (London, 1933), p. 2 of an essay entitled "Some American Interpretations of Law."

pretation, with the judges definitely referred to electoral majorities as furnishing a criterion of constitutionality in doubtful cases. If it is clear to the Court that Congress has received a popular mandate to carry out a given policy, the Constitution should be interpreted to sustain the policy. In short, judicial review should be the means of preventing Congress from upsetting established judicial notions of constitutional propriety without "going to the country" on that particular issue.[28]

To those who may object that this would require the judiciary to uphold Congress in a clear violation of the Constitution, it may be observed that judicial review never has been, and never could be made, a guarantee against a "clear" violation of a constitutional provision. Should a majority of the people endorse a congressional act which all of them recognized to be a violation of the Constitution, that would amount to revolution, and revolution is not a contingency with which judges are conspicuously equipped to deal.

Quite distinct from such abrupt and patent changes in the Constitution as must obviously be ushered in by formal amendment—if we wish to preserve a legal continuity in our political system—are the gradual and almost imperceptible changes ushered in by interpretation. Here it is proper for the judges to recognize that their interpretation should be guided by popular notions of constitutional legitimacy; but the actual formulation of such "amendments" should be left where it now is, i.e., in the hands of the Supreme Court. If this obligation on the part of the Court to "watch the election returns" is understood and acted upon, there should be little necessity for recourse to any formal amendment procedure save at those rare intervals when the entire framework of constitutional ideas may have to be revised.

The proposal sketched above has certain advantages over other proposals to meet the problem of judicial review.[29] The other proposal which most nearly catches the spirit of the present suggestion is that of requiring the Supreme Court to accept any law enacted by two Congresses in succession. The prime objection to

[28] As a matter of fact, Hamilton's famous argument in the 78th number of the *Federalist* is in part based on the necessity for judicial review to prevent the members of the legislature from substituting their will for that of their constituents.

[29] Renewed interest in this subject in the last two years is responsible for many good articles, e.g., K. B. Fite and L. B. Rubenstein, "Curbing the Supreme Court —State Experiences and Federal Proposals," *Michigan Law Review*, Vol. 35, pp. 762 ff.

this proposition is that the specific act of Congress may or may not have figured as an issue in the campaign for reëlection. If it did not, there is no good reason why the Court should be forced to accept it. Popular recall of judicial decisions holding acts of Congress unconstitutional is objectionable for different reasons. To recall a decision leaves nothing in place of it. The Court must always be relied upon to state the existing law, and every decision should stand—no matter how clear it has become that the Court will reverse itself—until the reversal actually occurs.

Proposals to amend the Constitution so as to eliminate the broad provisions which afford the Court most leeway in interpretation are as bad from the present standpoint as proposals to eliminate judicial review altogether. Interpretation of such provisions constitutes the only significant part of judicial review. If, again, it is proposed to make the Constitution formally amendable by an extraordinary vote of the legislature, there is no appeal to the general electorate, and this too is objectionable. On the other hand, if a majority of the people are to have the right to amend the Constitution, either of two things may happen. If the change proposed is revolutionary, constitutional revision by bare majority vote is being encouraged, and few liberals would like to see democracy carried that far. If the change is in the nature of interpretation, the people are being called upon to pass upon legal technicalities for which they certainly are not equipped. Constitutional interpretation should be a judicial version, or estimate, of what the people want. It should not be an act of popular legislation.

The adoption of such a constitutional custom as has been outlined above would do a great deal to temper judicial review to the requirements of a genuine balance of power between law and government.

There is, perhaps, a final warning which it is appropriate to address to those who feel that the above concession to the "political" branches of our government is too great. Judicial review, in its present uncompromising form of absolute judicial control, dates only from the end of the last century. The framers of the Constitution were far from agreement that the judiciary would enjoy an *exclusive* right to interpret the Constitution, or that the judges were entitled to question an act of Congress which had nothing to do with the judicial department.

With respect to the first qualification, the early separation-of-

powers attitude was that all of the departments had equal right to determine the bounds of their own competence under the Constitution, and that a judicial declaration of unconstitutionality meant only that the courts refused to lend themselves to what they regarded as unconstitutional action by the other departments. Objectively, the question of constitutionality would not be concluded against the legislature or the executive, and, by inference, a congressional policy might well have been put into effect despite judicial opposition if judicial coöperation was not necessary to enforce it. From Mr. Boudin's analysis of this problem,[30] it would appear that the Supreme Court did not definitely embrace the wider doctrine of judicial infallibility until Pollock v. Farmers' Loan and Trust Company in 1895.[31]

With respect to the second qualification, it should be borne in mind that judicial review was dealt with by the authors of the *Federalist* as one of the checks and balances of the Constitution, specifically intended to equip a department to repel encroachments on its own sphere of action. And it should also be remembered that it was not until the Dred Scott decision that the Supreme Court ever undertook to declare an act of Congress unconstitutional which did not involve either an alleged imposition of non-judicial functions upon the judiciary or an alleged deprivation of the judiciary of judicial functions.

Finally, the fact that the courts are not entitled to regard themselves as irresponsible arbiters of congressional morality would appear from the very language of Article III, which places the establishment and jurisdiction of all the inferior courts at the mercy of Congress and subjects the appellate jurisdiction of the Supreme Court to such exceptions "as the Congress shall make."[32]

It is not suggested here that we should attempt to revive either

[30] *Government by Judiciary* (New York, 1932), Vol. 1, p. 101.

[31] 157 U. S. 429.

[32] The problem of jurisdiction remains unsettled. That Congress may, by repealing the statutory provision under which any particular appeal is taken to the Supreme Court, deprive the Court of any right to proceed, has been recognized since the famous McCardle case (7 Wall. 506); but whether, having provided for the hearing of any particular cause, Congress could exclude judicial consideration of certain questions is not clear. The Supreme Court has given some indication that it would distinguish between "jurisdiction" and "inherent powers in the exercise of jurisdiction" to protect itself. See U. S. v. Klein, 13 Wall. 128; Michaelson v. U. S., 266 U. S. 42; W. W. Willoughby, *On the Constitution of the United States*, Vol. 3, at p. 1623.

of the aforementioned qualifications on the theory of judicial review,[33] or that Congress should take punitive action against the Court under its undoubted right to determine personnel or prescribe jurisdiction. The point merely is that it would be wise for the Court, first, to recognize a definite responsibility to public opinion in its constitutional interpretation, and second, to avoid frequent clashes with Congress by severely restricting its use of those former writs of high prerogative which directly challenge the enforcement of acts of Congress.

[33] The fact that there were unworkable compromises between legislative and judicial supremacy is suggested in Morris Ernst, *The Ultimate Power* (New York, 1937), p. 173, but it cannot be denied that they reflected the unwillingness of many of the framers to accept the latter alternative.

The Social Science Analyst Examinations. On March 15, 1937, the United States Civil Service Commission, in a forward-looking attempt to keep pace with the increasing demand for trained social scientists in the federal service, announced an examination for "social science analysts"—six grades in all—as follows:

Title	*Grade*	*Starting Salary*
Junior Social Science Analyst	P-1	$2,000
Assistant Social Science Analyst	P-2	2,600
Associate Social Science Analyst	P-3	3,200
Social Science Analyst	P-4	3,800
Senior Social Science Analyst	P-5	4,600
Principal Social Science Analyst	P-6	5,600

The examinations for social science analysts (a new title, never before used by the federal government) were designed to recruit persons with broad professional training in various social science fields. These fields were five in number—economics, agricultural economics, political science, sociology, and social service.

Development of the Plan. This announcement of the Civil Service Commission had long been awaited, particularly by professional economists and political scientists, but also by certain of the social and economic agencies of the federal government that required competent social scientists in order to carry on their research work. The idea was to make it possible for an applicant trained primarily in one of the social sciences, but qualified also in another, to make this second qualification tell in the examination, on the theory that, other things being equal, an agricultural economist, for example, who has some grasp of sociological problems and sociological methods is a more desirable federal employee than the agricultural economist who does not have the broader interest and training. Furthermore, it was urged that these examinations would recruit persons who, even though not trained in more than one social science, were nevertheless broadly trained within their own particular disciplines, with the result that a farm finance specialist would know something of business cycles or marketing or perhaps rural sociology. Another point that was urged was that the federal government ought to provide a reservoir of names on which to draw, rather than to hold a separate and detailed examination every time a job is open and has to be filled. Thus, the applicants for positions of social science analyst would not be making application for jobs that were immediately available, but rather presenting themselves as possible names on a waiting list if and when positions should open up, which was not only the possibility but the expectation.

The only examination that could be said to offer any kind of a precedent for the social science analyst examinations was the one for general economists announced on February 3, 1936, which had been suggested by some of the federal agencies in order to recruit more broadly-trained economists.[1] Before 1936, all economists were recruited from special examinations for special types of economists. The general examination for economists was subdivided into appropriate optional subjects, thereby establishing numerous specialist registers from one general examination. "It is the policy of the Commission not to hold a highly specialized examination in any case where it is practicable to avoid it," says the Commission's annual report in connection with this general economist examination.[2] This examination, however, was limited to persons trained in economics, excluding all the other social sciences. Hence the subsequent demand for the social science analyst examinations.

Education, Experience, and Age Qualifications. Two announcements were made, one for "the lower grades" and one for "the upper grades." The former included the two lowest grades (Junior and Assistant), while the latter included the top four. For the lower grades, the examination was announced as "assembled," i.e., written. The examination for the upper grades was "unassembled," i.e., rated entirely on the quality and quantity of the applicants' evidence of education and experience.

Specific qualifications for each of the six grades were set down. For the Junior grade (P-1, $2,000), candidates were required to have completed satisfactorily a full four-year college course leading to a bachelor's degree, with major work in one of the fields covered by the announcement. This requirement was interpreted to allow a major to include a modicum of course work in closely related fields not usually falling strictly within the major. Also the lack of an undergraduate major could be made up by substituting graduate work in one of the accepted fields. The Assistant grade (P-2, $2,600) required at least two years of professional work beyond the bachelor's degree, consisting of one of the following: (a) full-time graduate study in an accepted discipline, (b) full-time collegiate-level experience in teaching in an accepted discipline, provided research was carried on simultaneously, (c) full-time professional or research experience in an accepted discipline, or (d) any equivalent combination of these three. In order to improve the chances of recruiting men and women on a career basis, age limits were imposed.[3] Applicants for the Junior

[1] The strongest request came from the Central Statistical Board. See Leonard D. White, "New Opportunities for Economists and Statisticians in Federal Employment," *American Economic Review*, Vol. 27, no. 1, Supplement, pp. 210–215 (March, 1937). [2] U. S. Civil Service Commission, *Annual Report, 1936*, p. 3.

[3] Following one of the desirable features of the British system of recruitment. For a discussion of age limits in the United States, see Walter V. Majoewsky, "Maximum Age Limits at the Time of Employment," *Public Personnel Studies*, Vol. 8, pp. 67–72 (May, 1930).

grade should not have reached their thirty-fifth birthday, and applicants for the Assistant grade should not have reached their fortieth birthday.

For the upper grades, these qualifications were as follows:

Grade	*Postgraduate Education or Experience*	*Age Limit*
P-3	3 years	45
P-4	5 years	48
P-5	6 years	53
P-6	7 years	53

Preparing the Written Examinations. From the administrative point of view, the organization and preparation of the assembled examinations presented the greatest problem. The question was that of how to devise a single examination that could test at one sitting the abilities of a man trained in any one of the five social sciences or any combination of them. After a good deal of thought, the Commission hit upon a plan. The five fields were broken down into their component parts, and these were designated as "optionals" (a technical term employed by the Civil Service Commission). The result was 32 optionals, and questions were then drafted for each of these subjects. The 32 optionals, or blocks of questions, were as follows:

(1) Agricultural Price Analysis
(2) Community Organization and Group Work
(3) Comparative Government
(4) Consumers' Problems
(5) Corporation Finance and Investments
(6) Economic Theory and Business Cycles
(7) Family Welfare and Child Care
(8) Farm Finance
(9) Farm Management
(10) Foreign Trade
(11) Government and Business
(12) International Law and Relations
(13) Labor Problems
(14) Land Economics
(15) Marketing Agricultural Products
(16) Money, Credit, and Banking
(17) National Government
(18) Population and Vital Statistics
(19) Public Administration
(20) Public Finance and Fiscal Administration
(21) Public Law
(22) Public Utilities (including Transportation)
(23) Public Welfare Assistance
(24) Rural Sociology
(25) Social Groups and Institutions
(26) Social Pathology (including Criminology, Insanity, and Poverty)
(27) Social Welfare Legislation
(28) State, County, and Municipal Government
(29) Statistics
(30) The Family
(31) Urban Sociology
(32) Welfare Administration

Each optional, or block of questions, contained 12 short-answer questions. The candidates were directed to select any 10 blocks and to choose any 10 out of the 12 questions contained in each block, which resulted in each candidate answering an even 100 questions.

When the plan was first suggested, it was thought that it offered too much choice; the proposed examination appeared too easy. However, as will be observed from the above list, only a few of the 32 optionals fall strictly within any one discipline, and hence it was necessary for the candidate to go outside his own specialty and select one or two or three optionals from another discipline. This set-up not only precluded the examination from being too easy, but even forced the candidate to show some degree of breadth in his training. To cite an example: Only six of the 32 optionals are strictly in the field of political science, namely, 3, 12, 17, 19, 21, and 28. Two others, Government and Business and Public Finance and Fiscal Administration, might well be either economic or political in nature. Even assuming the political scientist to have had training in every one of these eight subjects, and hence to have selected these eight optionals, such candidate would still have to hunt for two additional optionals, and these would necessarily be in disciplines outside the field of political science.[4]

In the lower grades alone, there were 15,699 applicants. With such a huge number of potential examinees, it was necessary to make all of the questions of the short-answer type rather than the essay type. Some objection was, of course, raised against the complete exclusion of the essay type of question; the alternative was to draft short-answer questions of as high a quality as possible. Certainly the Civil Service Commission was not completely successful in this bold venture; but, considering all the difficulties involved, it seems safe to say that the experience was moderately successful.

The questions were prepared primarily by the five social scientists of the professional examining section of the Civil Service Commission, but outside assistance in the original drafting of the questions was, in substantial degree, secured for all five of the general fields covered by the examinations, with the exception of political science. Eventually, each of the 32 blocks of questions was carefully reviewed by at least one authority outside the Commission's staff.

Shortly after the Commission's own staff began to prepare the questions, it became evident that there were very definite and real problems

[4] The fields of political theory and public opinion were excluded from the written examinations by the heads of the examining division of the Civil Service Commission on the ground that it would be undesirable to include fields for which there would never be a chance of a call from an appointing officer. The omission of these fields from the examinations worked a handicap on the applicants educated in certain universities, of which Harvard is probably the best example.

to be solved if the examinations were to be fair and reasonable and at the same time capable of recruiting social scientists with ability to *think*.[5] Examples of such problems were: (1) proper coverage of subject-matter in each block; (2) proper weight to portions under subject-matter in each block; (3) proportions of different types of questions; (4) overlapping of questions in different blocks; (5) predictive value of individual questions;[6] (6) uniform difficulty as among the various groups and the five different disciplines; (7) proper difference in difficulty between the two grades; (8) clarity of independent questions; (9) correct answers to individual questions; and (10) supplying answers to one question by statement in another.

The existence of these problems prompted the suggestion from the Civil Service Commission's technical staff that there be secured the services of some competent person, from outside the Commission, to coördinate and edit the examinations. The suggestion for an editor-in-chief was accepted; and a university dean, a broadly-trained social scientist with a flair for coördination and administration, was appointed to tackle the problems outlined above and others that arose. Thus, each of the two written examinations was toned up and coördinated within itself.

Candidates for the Junior grade were rated exclusively on the Junior written examination. Candidates for the Assistant grade were rated on a composite basis, as follows. They were required to take the Junior examination (weighted 25 per cent) and the Assistant examination (weighted 50 per cent); the quantity and quality of the accepted education and experience were weighted 25 per cent. If a candidate for the Assistant grade failed to make an average of 70 on the Junior examination, he was disqualified from any rating on either grade, but if he made 70 or more on the Junior examination and failed the Assistant examination, he was assigned to the Junior grade, irrespective of whether he passed the Assistant examination. Of course, if he passed both the Junior and the Assistant examinations, he was assigned to both grades.

Optionals for the Upper Grades. Because of the more specific demands of the more advanced positions in the federal service, the number of optionals for the upper grades was increased from the 32 used in the lower grades to 56. These optionals, each of which became an individual civil service register, were as follows:

[5] Contrary to the current notion, short-answer questions *can* be prepared which will test for more than factual information. Short-answer questions can, with sufficient care and insight, be drafted in such a way that they are incapable of proper answer without the application of real thought. It is a difficult task, but it can be done.

[6] Many short-answer questions can be asked in an examination that do not, in point of fact, have any predictive value. That is, the answers to such questions demonstrate neither competence nor probable usefulness on the part of the examinee. Care was taken to see that a minimum of such questions were included in the examinations.

(1) Agricultural Marketing Research
(2) Agricultural Land Economics
(3) Farm Finance
(4) Farm Management
(5) Commodity Exchanges
(6) Commodity Economics
(7) Mining and Other Non-Farm Extractive Industries
(8) Industry Studies
(9) Corporation Finance
(10) Money, Credit, Prices, and Banking
(11) Investment Banking and Finance
(12) International Trade
(13) Marketing, Retail and Wholesale Trade
(14) Housing, Construction, Real Estate (including sociological studies)
(15) Transportation
(16) Public Utilities
(17) Employment and Unemployment
(18) Social Insurance (excluding unemployment compensation)
(19) Labor Relations
(20) Wages, Hours, and Working Conditions
(21) Consumer Problems
(22) Retail Prices and Cost of Living
(23) Wholesale and Retail Price Studies
(24) Analyses of General Economic Conditions
(25) Economic Theory and History of Economic Doctrines
(26) Statistical Research
(27) Research in Business Administration
(28) Public Finance and Fiscal Administration
(29) Government and Business
(30) National Government
(31) State, County, and Municipal Government
(32) Public Administration
(33) Public Law
(34) International Law and Relations
(35) Comparative Government
(36) Political Theory
(37) Public Opinion and Public Policy
(38) General Sociology
(39) Population
(40) Vital Statistics
(41) Criminology and Penology
(42) Poverty and Dependency
(43) Social Pathology (other than Criminology and Penology, and Poverty and Dependency)
(44) Rural Sociology
(45) Urban Sociology
(46) The Family
(47) Childhood and Youth
(48) Races and Nationalities
(49) Social Institutions and Social Control
(50) Social Service Administrative Problems and Procedures
(51) Social Welfare Legislation
(52) Investigation of Social Work Programs
(53) Professional Problems of Training for Social Work Administration
(54) Case Work Research
(55) Group Work Research
(56) Community Organization Research

Allocation to Registers. In the case of the upper grades, the allocation of eligibles to the various registers presented little difficulty, other than that of determining the candidate's qualifications therefor. Each candidate was assigned to as many optionals, or registers, as the quality and quantity of his education and experience permitted.

However, in the case of the lower grades the allocation to registers was a knotty problem; for each candidate, as indicated above, was allowed to select only 10 optionals even though he might wish to be considered both as, for example, an economist and as a political scientist. The problem was solved as follows: The successful candidate was assigned, not only to the general discipline in which the larger proportion of his special optionals fell, but also to those individual registers constituted by the special optionals in which he had shown the greatest ability. Thus, if a candidate showed unusual competence in all of the 10 optionals selected, he was assigned to each of these 10 registers; such a condition was, of course, so exceptional as to render it negligible in importance. However, many candidates were assigned to as many as six special optionals. In addition, a good many were placed on more than one of the general registers for the five major disciplines.

The over-all rating received for the entire examination was the rating that was given for the individual registers; in other words, a man who received a rating of 86 on the entire examination received an individual rating of 86 on each one of the special registers irrespective of how many of the 10 questions in any one block he answered correctly—provided, however, that he made a satisfactory record in the individual optional itself.[7] This procedure seemed the wise one, for otherwise a man who answered correctly all 10 of the questions in a given block would receive a rating of 100 for that particular optional, but would fall to 90 if he missed only one of the questions. Similarly, a man who did very well in seven of the optionals, but who did very poorly in the remaining three, would receive a flattering rating in his seven best optionals, whereas his poor showing in the other three would indicate that he was not the all-around scholar for whom the Civil Service Commission was looking. It was believed, therefore, that the 32 special registers established for Junior and Assistant social science analysts would reveal, with substantial accuracy, the various special capacities and combinations of capacities required for the many types of research positions in the federal social science service. Experience has suggested the desirability of larger blocks of questions, because 10 short-answer questions sometimes did not constitute a sufficiently broad test of a candidate's familiarity with a special field. Perhaps a block of either 18 or 20 questions (15 to be answered) would have sufficed.

[7] Satisfactory, or passing, was defined as 70, or 7 out of the 10 required questions.

Pertinent Statistics. A few figures will serve to indicate the public interest in the social science analyst examinations, as well as the quality of the applicants.

In the case of the Junior grade, the data reveal approximately the mortality that was expected. The mortality in the Assistant grade was slightly higher than expected. The story is told in the following table:

JUNIOR AND ASSISTANT SOCIAL SCIENCE ANALYST
NUMBERS APPLYING AND EXAMINED[a]

	Total	*Assistant Grade*	*Junior Grade*
Applied	15,699	4,269	11,430
Cancelled	4,419[b]		
Accepted, but failed to report for written examinations	1,980[b]		
Examined	9,300	766	8,534
Eligible (passed)	4,915[c]	400	4,515[c]

[a] Unpublished data of the U. S. Civil Service Commission. The figures do not take account of the subsequent appeals and corrections, but the number of these was not proportionately large. The figures for the Junior grade are those for the Junior grade *only*, so there is no double counting.

[b] For various reasons, no attempt is made in this tabulation to distribute applications between the Junior and Assistant grades, as to either cancellations or failures to report for written examinations.

[c] Examined for Junior and eligible as Junior, 4,313; examined for Junior and Assistant but eligible as Junior only, 202; examined for Junior and Assistant and eligible for both, 400.

The primary reason for cancellation was "insufficient education and experience." Other reasons, in the order of their numerical importance, were "failure to furnish information on education and experience," "applications or supplementary material received too late," and "physical condition, age, citizenship, etc., disqualifying." The 32 special registers and the five general registers, as finally established, varied a good deal in size. The general registers for the lower grades were, in order of magnitude, as follows: (1) Economics; (2) Political Science; (3) Sociology; (4) Social Service; (5) Agricultural Economics.

The number of applications received for the four upper grades was 4,455. The number finally rated eligible was 982. The bulk of these fell, of course, in the Associate grade.[8]

All ratings for the lower grades were completed in March, 1938, and the results were announced during that month. The ratings for the upper grades were completed in May, 1938, and the results were announced in June.

[8] Unpublished data of the U. S. Civil Service Commission. The figures presented do not take account of the subsequent appeal cases.

Significance. The social science analyst examinations have been criticized both by competitors and by the Civil Service Commission itself. Competitors have contended that (1) the examinations were unduly delayed in being scored (more than a year elapsed from the closing date of the examination until the announcement of the ratings); (2) competitors were required to furnish an undue amount of detailed information concerning themselves;[9] (3) competitors were too often not rated in the most appropriate optionals or were given an unfair rating; (4) the announcements were not sufficiently clear in specifying the requirements for eligibility. The Civil Service Commission itself believes that (1) the examinations were too broad in scope, and were too complicated and difficult to administer;[10] (2) they included optionals in sociology and political science which are of so little practical use that they should not have been included.

The criticisms voiced by competitors are really criticisms of the quality and quantity of the social science examiners in the professional examining section of the Civil Service Commission. With the proposed doubling of the social science unit, both in quantity and in quality, as a result of marked additional appropriations, another social science analyst examination ought not to be open to much attack from the competitors.[11] The criticisms now quietly advanced by the Commission itself would appear to be unfounded. The examinations were difficult to administer, of course, but with the application of much hard thinking and much long-range planning, together with the experience gained from this initial set of social science analyst examinations, a first-rate job can and should be done. The Commission's objection to the inclusion of sociology and political science and its proposal to omit them in the future should be overcome. The social science analyst examinations offered the first and only opportunity for the sociologist and the political scientist to enter the

[9] Until the social science analyst examinations, the Civil Service Commission was frequently criticized for rating competitors on insufficient information. Now the Commission is condemned because it asks for the information it needs. In the case of the social science analyst examinations, the real basis for criticism is that information was requested in two installments instead of one.

[10] Some competitors, on the other hand, have complained that the examinations were not broad enough—that they should have included history, psychology, philosophy, education, and biometry especially. Still other critics outside the Commission hold that no field whatsoever should have been left out; but that, of course, would have nullified the whole idea of an examination for "social scientists," since for the lowest grade it would have meant only a repetition of the examinations for junior civil service examiner, and for the five higher grades it would have resulted in a monstrous conglomeration.

[11] In all fairness, it should be stated that throughout the entire year during which work was being done upon the social science analyst examinations there were only five social scientists on the Commission's staff to carry the load.

federal civil service by the front door. Heretofore they have had to sneak in the back door bearing the label of "economist." The sociologist and the political scientist are only cutting their own throats when they criticize destructively the first set of social science analyst examinations.[12]

The examinations described constitute, not only a definite recognition on the part of the Civil Service Commission of the demand for qualified social scientists by many of the social and economic agencies in the federal government, but also an indication that the American national service has at long last become a career for social scientists *per se*. These professional people are definitely recognized as scientific and technical men and women. They are in the same class with engineers, botanists, chemists, geologists, and the other scientific research people in the national administration.

The social science analyst examinations of 1937 were not perfect. But they were progressive, far-reaching, and, it is to be hoped, precedent-setting.

LEWIS B. SIMS.

U. S. Bureau of the Census.

Organization of the Executive Branch of the National Government of the United States: Changes between July 16, 1938, and April 25, 1939.[1] As in previous lists, mention is here confined generally to units specifically authorized by law or established by the President by executive order under general authority vested in him. Changes in units created by heads of departments or independent establishments are excluded unless of major importance.

[12] A multi-field examination for "junior professional assistants" was announced on January 30, 1939 (closed February 27, 1939, written examination given May 6, 1939), which covered most of the professions in the federal civil service but was limited to the junior level. The registers established from optionals 1 and 7—junior administrative technician and junior economist—may supersede the social science analyst examinations (on the junior level only) in the case of the various political science registers and the several registers in the economics and the agricultural economics fields. A preliminary count shows that of the 43,410 applicants for the junior professional assistant examination, optional 7 (Junior Economist) led with 8,414, optional 8 (Junior Engineer) was second with 7,985, and optional 1 (Junior Administrative Technician) was third with 5,903. A pertinent aside, useful to readers of this REVIEW, is the fact that through March, 1939, the only political science fields of interest to operating agencies, as indicated by actual use of the various social science analyst registers, were Public Administration, Public Finance and Fiscal Administration, and Government and Business; and the latter two fields savor of economics.

[1] In the December, 1933, issue of this REVIEW, pp. 942–955, appeared a tabular review of the changes in major units of the national government between March 4 and November 1, 1933. Supplementary lists have appeared in the following issues:

The changes listed below are provided for in Reorganization Plan No. 1 submitted by the President to the Congress on April 25, 1939, under authority of the Reorganization Act of 1939 (Public No. 19, 76th Congress), approved April 3, 1939. These changes will take effect June 26, 1939, as the Reorganization Act provides that any plan shall be effective 60 days after transmittal to the Congress unless the Congress disapproves it within that period by a concurrent resolution. On May 3, a concurrent resolution disapproving Reorganization Plan No. 1 was rejected by the House of Representatives by a vote of 128 to 265. This vote prevents any further action on the plan, as the Reorganization Act provides that a motion to reconsider will not be in order. The plan may be made effective at an earlier date by act or joint resolution, but such action is considered unlikely.

Agriculture Department. The following agencies are transferred to Department of Agriculture: Farm Credit Administration, Federal Farm Mortgage Corporation, and Commodity Credit Corporation.

Budget Bureau. Transferred from the Treasury Department to the Executive Office of the President.

Central Statistical Board. Transferred to the Bureau of the Budget.

Central Statistical Committee. Abolished and its functions transferred to the Director of the Bureau of the Budget.

Civilian Conservation Corps. Transferred and made subordinate to the newly created Federal Security Agency.

Commodity Credit Corporation. Transferred to Department of Agriculture.

Disaster Loan Corporation. Transferred and made subordinate to newly created Federal Loan Agency.

Education Office of the Department of the Interior. Transferred and made subordinate to the newly created Federal Security Agency.

Electric Home and Farm Authority. Transferred and made subordinate to newly created Federal Loan Agency.

Export-Import Bank of Washington. Transferred and made subordinate to newly created Federal Loan Agency.

April, 1934: changes between November 1, 1933, and March 15, 1934; October, 1934: changes between March 15 and June 30, 1934; February, 1935: changes between June 30 and December 15, 1934; August, 1935: changes between December 15, 1934, and July 5, 1935; October, 1935: changes between July 5 and August 12, 1935; December, 1935: changes between August 12 and October 15, 1935; June, 1936: changes between October 15, 1935, and April 15, 1936; October, 1936: changes between April 16 and July 31, 1936: August, 1937: changes between August 1, 1936, and May 31, 1937; February, 1938: changes between June 1 and November 30, 1937; August, 1938: changes between December 1, 1937, and May 31, 1938; October, 1938: changes between June 1 and July 15, 1938.

Farm Credit Administration. Transferred to Department of Agriculture. The Farm Credit Administration was created as an independent agency by Executive Order 6084 of March 27, 1933, which consolidated several units dealing with agricultural credit.

Federal Emergency Administration of Public Works. Transferred and made subordinate to newly created Federal Works Agency and name changed to Public Works Administration.

Federal Employment Stabilization Office. Transferred to newly created National Resources Planning Board. The Federal Employment Stabilization Board was abolished by Executive Order 6166 of June 10, 1933, and its records transferred to the Federal Emergency Administration of Public Works. The effective date of the order was deferred several times, and Executive Order 6623 of March 1, 1934 created the Federal Employment Stabilization Office in the Department of Commerce to take the place of the Board. It was discontinued as a separate agency on June 30, 1935, by reason of lack of appropriation, but the work was continued by the Procurement Division of the Treasury Department. In 1936, the work was transferred to the Public Works Administration.

Federal Farm Mortgage Corporation. Transferred to Department of Agriculture.

Federal Home Loan Bank Board. Transferred and made subordinate to newly created Federal Loan Agency.

Federal Housing Administration. Transferred and made subordinate to newly created Federal Loan Agency.

Federal Loan Agency. New unit created, with a Federal Loan Administrator at its head, to be appointed by and with the advice and consent of the Senate at a salary of $12,000 a year. The administrator is to supervise the administration and be responsible for coördination of the functions and activities of the following: Reconstruction Finance Corporation, Electric Home and Farm Authority, RFC Mortgage Co., Disaster Loan Corporation, Federal National Mortgage Association, Federal Home Loan Bank Board, Home Owners' Loan Corporation, Federal Savings and Loan Insurance Corporation, Federal Housing Administration, and Export-Import Bank of Washington.

Federal National Mortgage Association. Transferred and made subordinate to newly created Federal Loan Agency.

Federal Savings and Loan Insurance Corporation. Transferred and made subordinate to newly created Federal Loan Agency.

Federal Security Agency. New unit created, with a Federal Security Administrator at its head, to be appointed by and with the advice and consent of the Senate, at a salary of $12,000 a year. The following units are transferred to the new agency: United States Employment Service from the Department of Labor, Office of Education from the Department

of the Interior, Public Health Service from the Treasury Department, National Youth Administration from Works Progress Administration, Social Security Board, and Civilian Conservation Corps.

Federal Works Agency. New unit created, with a Federal Works Administrator at its head, to be appointed by and with the advice and consent of the Senate, at a salary of $12,000 a year. The following units are transferred to the new agency: (1) Bureau of Public Roads of the Department of Agriculture, whose name is changed to Public Roads Administration; the designation of the Chief of the Bureau of Public Roads is changed to Commissioner of Public Roads; hereafter he is to be appointed by the Federal Works Administrator. (2) The Public Buildings Branch of the Procurement Division of the Treasury Department and the Branch of Buildings Management of the National Park Service of the Department of the Interior; to carry on this work there is established the Public Buildings Administration, under a Commissioner of Public Buildings to be appointed by the Public Works Administrator and to receive a salary of $9,000 a year. (3) United States Housing Authority of the Department of the Interior. (4) Federal Emergency Administration of Public Works, to be under a Commissioner of Public Works, who is to be appointed by the Federal Works Administrator, and who is to receive a salary of $10,000 a year. (5) Works Progress Administration, except National Youth Administration, which is transferred to the Federal Security Agency; the name is changed to Work Projects Administration, at the head of which is to be a Commissioner of Work Projects to be appointed by the Federal Works Administrator at a salary of $10,000 a year.

Home Owners' Loan Corporation. Transferred and made subordinate to newly created Federal Loan Agency.

National Park Service of the Interior Department, Branch of Buildings Management. Transferred to newly created Public Buildings Administration, which will be subordinate to the newly created Public Works Agency. The maintenance and operations of public building in the District of Columbia and the assignment of space were transferred to the National Park Service by Executive Order 6166 of June 10, 1933.

National Resources Committee. Abolished and its functions transferred to newly created National Resources Planning Board.

National Resources Planning Board. New unit created in the Executive Office of the President consisting of five members to be appointed by the President; each member to receive $50 a day, but in no case to be entitled "to receive compensation for more than 30 days' service in two consecutive months." The new board succeeds to the functions of the National Resources Committee and the "Federal Employment Stabilization Office in the Department of Commerce." (See Federal Employment Stabilization Office above).

National Youth Administration of the Works Progress Administration. Transferred and made subordinate to the newly created Federal Security Agency.

Procurement Division of the Treasury Department, Public Buildings Branch. Transferred to newly created Public Buildings Administration, which will be subordinate to the newly created Federal Works Agency. The Procurement Division was created by Executive Order 6166 of June 10, 1933, and succeeded mainly to the duties of the Office of the Supervising Architect of the Treasury Department.

Public Buildings Administration. Newly created agency subordinate to Federal Works Agency; succeeds to work of Public Buildings Branch of the Procurement Division of the Treasury Department and the Branch of Buildings Management of the National Park Service.

Public Health Service of the Treasury Department. Transferred and made subordinate to the newly created Federal Security Agency.

Public Roads Administration. New name assigned to Bureau of Public Roads, which is transferred to Federal Works Agency.

Public Roads Bureau of Department of Agriculture. Transferred and made subordinate to newly created Federal Works Agency; name changed to Public Roads Administration; designation of chief is changed to Commissioner of Public Roads; hereafter he is to be appointed by the Federal Works Administrator.

Public Works Administration. Successor to the Federal Emergency Administration of Public Works; made part of newly created Federal Works Agency.

RFC Mortgage Company. Transferred and made subordinate to newly created Federal Loan Agency.

Reconstruction Finance Corporation. Transferred and made subordinate to newly created Federal Loan Agency.

Social Security Board. Transferred and made subordinate to the newly created Federal Security Agency.

United States Employment Service of the Department of Labor. Functions consolidated with the unemployment-compensation functions of the Social Security Board, which is transferred and made subordinate to the newly created Federal Security Agency. The Office of Director of the United States Employment Service is abolished.

United States Housing Authority of the Department of the Interior. Transferred and made subordinate to newly created Federal Works Agency.

Works Progress Administration (except National Youth Administration). Transferred and made subordinate to newly created Federal Works Agency, and name changed to Work Projects Administration.

Work Projects Administration. Successor to Works Progress Administration, except National Youth Administration; made part of newly created Federal Works Agency.

The following units have been established under general authority vested in the President.

Committee to Investigate and Report Methods for Selecting and Promoting Certain Personnel in Civil Service. Created by Executive Order 8044 of January 31, 1939. Consists of four officers of the government and three other persons.

Interdepartmental Committee on Printing and Processing. Created by Executive Order 7998 of October 29, 1938, to promulgate regulations for the efficient utilization of printing and processing. The Committee consists of representatives of designated departments and establishments, and it may add representatives of other agencies.

Federal Real Estate Board. Created by Executive Order 8034 of January 14, 1939, to keep a record of real estate owned by the United States which is not being utilized, and to make recommendations regarding disposition of surplus property. The Board consists of representatives of designated agencies, and it may add representatives of other agencies.

Federal Interdepartmental Safety Council. Created by Executive Order 8071 of March 21, 1939, to act as a clearing house for accident prevention and health conservation information. Consists of such officers as may be designated by the heads of the several executive departments and independent agencies. The general policy of the Council is to be determined by a board consisting of the heads of seven designated executive departments, together with the heads of such other departments and agencies as the original members shall determine should have representation.

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Fascist Italy's New Legislative System. In the historic chamber of the Montecitorio on March 23, 1939, the Fascist régime unveiled its latest legislative model, the third in a series. The royal session of the Senate and the new Fascist and Corporative Chamber (*Camera dei Fasci e delle Corporazioni* [C. F. C.]) opened the thirtieth legislature just twenty years after the founding of the *fascio* of Milan.

During the year preceding this event, technical changes of broad scope took place in the structure of three basic institutions of the Fascist régime: (1) the Fascist party, (2) the National Corporative Council, and (3) Parliament. The reconstituted National Council of the Fascist party and the reorganized National Corporative Council have been made coordinate elements in the legislative system, thus accomplishing the formal integration of governing institutions toward which Fascists have been working since 1925. Outwardly, the most drastic change has been the substitution of the Fascist and Corporative Chamber for the old Chamber of Deputies. But the procedure of the two legislative chambers and their respective rôles in the legislative process have also been completely revised, in accordance with principles which have no counterpart in the legislative organization of any other state. No one seriously expects the new structure to alter the general course of Fascist policy, but the technical changes are of sufficient novelty to justify examination.

The Fascist and Corporative Chamber. The Chamber of Deputies committed long-awaited suicide when it approved by acclamation the bill creating the Fascist and Corporative Chamber on December 14, 1938, and then adjourned *sine die* after responding to the request of its president, Count Costanzo Ciano, for salutes to the king and *Duce*. Five days later, the Senate added its approval of the law, which was signed by the monarch on January 19, 1939.[1] In a typically enthusiastic manner, the deputies emphasized their self-denying fervor by acclaiming also a bill drafting them for front-line service in time of war![2]

Abolition of the Chamber of Deputies came as a distinct anti-climax, Fascist writers having long since exhausted their pæons for the gestating Fascist and Corporative Chamber.[3] Nevertheless, Virginio Gayda temporarily abandoned his comments on the glories of Munich to remark

[1] Law, January 19, 1939, no. 129, *Gazzetta Ufficiale* [*G. U.*], February 14, 1939, no. 37; a text also appears in *Bollettino parlamentare* [*B. P.*], XII (December, 1938), 71–80.

[2] Law, January 5, 1939, no. 59, *G. U.*, February 3, 1939, no. 28. "In the event of war, members of the Fascist Chamber shall have the privilege of being called to arms immediately and assigned to front-line units, regardless of age or physical condition. . . ."

[3] See C. Arena *et al.*, *La Camera dei Fasci e delle Corporazioni* (Florence, 1937) for a representative collection of the views of leading Italian jurists.

that "the new Fascist and Corporative Chamber, which had been developing for twenty years in the mind of Mussolini, crowns the imperialistic rise of Italy."[4] If Mussolini had been thinking of the matter for twenty years, it was not until November 14, 1933, that he gave the public its first insight of his thought, and only in a later speech of March 23, 1936, that he added certain details. In its meeting of November 18–19, 1936, the Fascist Grand Council appointed a Committee of Five to render assistance in its constitutional task of drafting a formal proposal;[5] and after an examination of the committee's plan in its session on March 10, 1938, the Council gave definitive approval, on October 7, to the project of law which Mussolini laid before the Chamber of Deputies on November 29.[6]

The Fascist and Corporative Chamber is distinguished in at least five particulars from the old Chamber of Deputies: (1) instead of having a fixed number of members—where the old Chamber had 400—the new Chamber has a variable membership, approximating 650; (2) all legislative elections are abolished; (3) all members of the new Chamber hold office *ex officio*, owing their legislative positions to appointments which they hold from the *Duce* to other organs of the régime; (4) there is no fixed legislative term; and (5) a large part of the work of the Chamber is definitively performed by its legislative commissions, without the formality of approval by the plenary membership. In this respect, also, the procedure of the Senate has been amended to conform to that of the new Chamber.

Membership in the Fascist and Corporative Chamber rests on three separate bases: (1) A representation which may be called "constitutional" includes the *Duce*, who is a member of right, and the members of the Fascist Grand Council,[7] and accounts for approximately 25 members. No recent change of substantial importance has been made in the membership of the Fascist Grand Council. (2) The "party" representation includes all members of the National Council of the Fascist party, and accounts for approximately 120 members. As one consequence of the new party statute of 1938, as later amended by the royal decree of November 21, 1938, the National Council has been reorganized and increased in

[4] *Giornale d'Italia* (Rome), October 8, 1938.

[5] *Popolo d'Italia* (Milan), November 20, 1936; *Foglio d'Ordini del P. N. F.* (November 19, 1936), no. 170. The committee consisted of MM. C. Ciano, Starace, Bottai, Lantini, and Solmi, the latter serving as *rapporteur*.

[6] XXIX Legislatura, Camera dei Deputati, Doc 2655. The subsequent legislative *relazione* was prepared by the same G. Acerbo whose name is associated with the reform of 1923. C. D. Doc. 2655-A.

[7] Law, January 19, 1939, cited, art. 4. Membership in the Fascist Grand Council is determined by the law of December 14, 1929, no. 2099, *G. U.*, December 14, 1929, no. 292, as amended to include several additional ministers and officials.

RECONSTRUCTION OF THE COUNCILS OF THE CORPORATIONS UNDER THE ITALIAN LAW OF JANUARY 5, 1939

Corporations	*Active Members*									*Associate Members*									
	Fascist party	*Industry*	*Agriculture*	*Commerce*	*Credit and Insurance*	*Professions and Arts*	*Coöperatives*	*Artisans*	*Total*	*Agriculture*	*Industry*	*Commerce*	*Credit and Insurance*	*Professions*	*Coöperatives*	*Artisans*	*Miscellaneous*	*Public Employees Association*	*Total*
1. Cereals	3	4	16	4	—	1	1	1	30	—	4	4	—	1	—	—	—	—	9
2. Horticulture	3	6	16	4	—	1	1	—	31	2	8	4	—	1	—	—	—	—	15
3. Wines and Oils	3	6	16	4	—	1	1	—	31	4	10	6	—	1	1	—	—	—	22
4. Livestock and Fisheries	3	4	16	6	—	2	2	—	33	—	10	6	—	—	—	—	—	—	16
5. Lumber	3	4	8	2	—	1	—	1	19	—	10	6	—	2	—	1	—	—	19
6. Textiles	3	10	14	4	—	2	—	1	34	2	26	4	—	2	1	1	—	—	36
7. Clothing	3	6	6	6	—	1	—	1	23	—	28	4	—	—	1	2	—	—	35
8. Metallurgy	3	6	2	2	—	1	—	—	14	—	10	2	—	1	—	—	—	—	13
9. Mechanics	3	8	4	2	—	2	—	1	20	—	28	6	—	1	2	1	—	—	38
10. Chemistry	3	8	4	4	—	2	1	—	22	—	40	4	—	1	1	—	—	—	46
11. Liquid Fuel	3	4	4	4	—	2	—	—	17	2	12	4	—	1	—	—	—	—	19
12. Paper and Printing	3	8	6	2	—	3	—	—	22	—	10	4	—	2	—	1	1	—	18
13. Building Construction	3	6	4	2	—	3	1	—	19	—	10	4	—	2	—	1	—	—	17
14. Water, Gas, and Electricity	3	8	4	—	—	1	—	—	16	—	12	4	—	1	1	—	—	—	18
15. Extractive Industries	3	6	2	2	—	1	—	—	14	—	12	4	—	1	1	1	—	—	19
16. Glass and Ceramics	3	6	2	2	—	1	1	1	16	—	18	4	—	1	—	1	—	—	24
17. Internal Communications	3	10	2	—	—	—	—	—	15	—	30	4	—	1	1	2	—	—	38
18. Sea and Air Communications	3	12	2	—	—	2	1	—	20	—	12	2	—	—	—	—	—	—	14
19. Theatre	3	4	—	—	—	3	—	—	10	—	20	—	—	2	—	—	3	—	25
20. Tourist	3	2	2	6	—	1	—	—	14	—	2	6	—	1	—	2	—	—	11
21. Professions and Arts	3	2	—	2	—	25	—	1	33	—	1	1	—	8	—	1	—	—	11
22. Credit and Insurance	3	2	2	2	34	2	1	1	47	—	—	—	26	1	—	—	9	1	37
Total	66	132	132	60	34	58	10	8	500	10	313	83	26	31	9	14	13	1	500

membership.[8] The National Council includes the federal secretaries and various other party officers whom the party secretary recommends to the *Duce* for appointment.[9] (3) The "corporative" representation includes all members of the National Corporative Council, which in turn comprises (a) the Corporative Central Committee and (b) the active members of the councils of the 22 category corporations. This element accounts for approximately 550 members. In anticipation of the new legislative system, the formal structure of the corporate state was substantially revised under the recent law of January 5, 1939.[10] The Corporative Central Committee, which assumes the controlling power over economic activities of the régime, retains its established external form, including in its membership (1) the ministers and under-secretaries of state, (2) the vice-secretaries and the administrative secretary of the Fascist party, (3) the 22 representatives of the Fascist party who serve as vice-presidents of the separate corporations, and (4) the ten presidents of the organizations of capital and labor in agriculture, industry, commerce, and finance (two each), the professions and arts, and for the coöperatives. The councils of the 22 category corporations, which between 1934 and 1939 included 824 members, have been organized on a new basis.[11] Under the law of January 5, 1939, the councils of the corporations include 500 active and 500 associate members, all appointed by the *Duce*. The new membership

[8] Law, January 19, 1939, art. 3. The current party statute was approved by the Grand Council, March 11, 1938 (*Foglio d'Ordini del P. N. F.* (March 19, 1938), no. 194; text also in *B. P.*, XII (April, 1938), 35–44). Legal sanction was given by the R. D., April 28, 1938, no. 513, *G. U.*, May 18, 1938, no. 112. In the final official form, the statute includes as an authorized preface the text of Mussolini's well-known essay, "The Political and Social Doctrine of Fascism," which thereby acquires legal force as the definitive statement of Fascist principles.

As amended by R. D., November 21, 1938, no. 2154, *G. U.*, February 13, 1939, no. 36, Article 17 of the party statute confers membership in the National Council on (1) the members of the National Directory of the party, which includes the party secretary, three vice-secretaries, the administrative secretary, and eight other members; (2) the 94 federal secretaries of the provincial organizations; (3) the party inspectors; (4) the secretary, vice-secretary, and two inspectors of the Foreign *Fasci* (*Fasci italiani all'estero*); and (5) the presidents of two official veterans' organizations. Compare Article 9, party statute of 1932, R. D., November 17, 1932, no. 1456, *G. U.*, November 21, 1932, no. 268.

[9] P. N. F. statute, 1938, cited, art. 15.

[10] No. 10, *G. U.*, January 25, 1939, no. 20; text also in *B. P.*, XII (December, 1938), 111–118.

[11] Compare law, February 5, 1934, no. 163, *G. U.*, February 20, 1934, no. 42, and related decrees, tabulated in H. A. Steiner, *Government in Fascist Italy* (New York, 1938), p. 115. In the new dispensation, the beets and sugar corporation is dropped, and the food oils corporation has been merged with the wine corporation to form a new wines and oils corporation. The metallurgy and mechanics corporation has been subdivided into two separate corporations, and a new liquid fuel corporation is created. The total number remains fixed at 22.

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of the corporation councils is shown in the accompanying table. The active members of the councils of the corporations become *ex officio* members of the Fascist and Corporative Chamber. The associate members perform functions relating to the internal affairs of each corporation, and are given voting rights within each corporation council, but do not belong to the new legislative body.

Altogether, the holders of some 710 positions might claim membership in the Fascist and Corporative Chamber. For several reasons, the actual membership will be closer to 650: (1) positions in several of the organs listed above are in themselves held *ex officio;* (2) on that ground, and for other reasons, there is a large duplication of membership between the Fascist Grand Council, the National Council of the party, the Corporative Central Committee, and the councils of the corporations; and (3) membership in the Fascist and Corporative Chamber is incompatible with membership in the Senate or in the Royal Academy.[12]

The members of the Fascist and Corporative Chamber are known as "national councillors" (*consiglieri nazionali*). Before a national councillor may take his seat, his status must be specifically recognized by decree of the *Duce* and examined by the president of the Chamber. Mussolini is thus given a double control over the membership, since every position in the organs that comprise the Chamber, not even excepting the "life" members of the Fascist Grand Council, is traced to an earlier decree of the *Duce.* Moreover, at any time, Mussolini may cancel an original appointment or a confirmation; and the president of the Chamber is required to take notice.[13] With a double control over appointment, combined with the right to remove, the *Duce* should not have the slightest difficulty in handling his new lower house.

The breach with the *Statuto* of 1848 is not entirely complete. National councillors, whatever the basis of their claim to office, must satisfy the requirements of that instrument concerning Italian citizenship, minimum age (25 years),[14] and the enjoyment of civil and political rights; they further enjoy the various rights and perquisites formerly possessed under the *Statuto* by members of the Chamber of Deputies, including immunity from personal liability unless waived by the judicial commission of the Chamber.[15] Members are to receive an annual salary fixed by law.

Revision of Legislative Procedure. The deterioration of the Italian legislative process, as a consequence of Fascist modifications in the period

[12] Law, January 19, 1939, art. 9.

[13] *Regolamento della Camera dei Fasci e delle Corporazioni,* December 14, 1938, art. 1. Text in *B. P.*, XII (December, 1938), 81 ff.

[14] The minimum age requirement of 30 years fixed by Article 40 of the *Statuto* was reduced to 25 years by the electoral law of 1928, R. D. September 2, 1928, no. 1993, *G. U.*, September 12, 1928, no. 210, art. 102.

[15] *Regolamento C. F. C.*, cited, art. 65.

1925–28,[16] was marked by net results which may be mentioned briefly. (1) Both legislative chambers were so effectively placed under Fascist control—the Senate by reason of the appointment of Fascist senators and the intimidation of non-Fascists, and the Chamber by reason of Fascist handpicking and meaningless plebiscites—that party discipline sufficed to prevent the exercise of legislative initiative or veto by Parliament. (2) Legislative discussion was confined to the subjects for which the Head of the Government expressly gave his assent.[17] (3) The decree-power of the government was so broadened[18] that the customary parliamentary procedures of legislation were supplanted by administrative law-making. (4) Within these limits, the most important legislative function of the chambers was to certify their willingness to "convert" decree-laws into statutes—a function made automatic by their political emasculation. (5) Parliamentary government was abolished, the government no longer acknowledged its political responsibility to the legislature, and the parliamentary procedures of question and interpellation fell into disuse. The legislative innovations of 1939 assume the perpetuation of these results, but contain additional guarantees to render the legislative process still more farcical.

The old Chamber was even more ineffective during the twenty-ninth and last legislature (1934–39) than it had been during the preceding legislature of 1929–34. To be sure, the legislative output was greatly increased in volume, owing to the increase in government initiative: 2,686 of the 2,705 government projects of law introduced were actually passed by the last Chamber of Deputies, whereas its predecessor passed 1,997 of the 2,021 government projects laid before it between 1929 and 1934.[19] But only four private-members' bills were introduced as compared to 11; there were *no* interpellations as compared to four in the earlier legislature; and only 34 oral and written questions were addressed to the government, as compared with 291 in the preceding five-year period. The Senate was equally lethargic.

This subversion of the regular legislative machinery involved a deliberate enlargement of the responsibilities of the executive branch, together

[16] H. R. Spencer, *Government and Politics of Italy* (Yonkers, 1932), pp. 158–189; H. A. Steiner, *op. cit.*, pp. 69–79.

[17] Under the law of December 24, 1925, no. 2263, *G. U.*, December 29, 1925, no. 301.

[18] Under the law of January 31, 1926, no. 100, *G. U.*, February 1, 1926, no. 25.

[19] Data for the twenty-eighth legislature from *Annuario statistico italiano, 1936*, p. 247; data for the twenty-ninth legislature from *B. P.*, XII (December, 1938), 65–66. Sixty per cent of the government bills enacted by the Chamber in the twenty-eighth legislature were for the conversion of decree-laws; the proportion in the twenty-ninth legislature appears to have been comparable, although final statistics are not available.

with a new definition of the legislative function. As stated by Deputy Acerbo in his report on the bill creating the new machinery: "The subordination of the executive function to the legislative function having ceased in 1925, the latter became nothing more than a matter of collaboration between the government and the two chambers. The present law reaffirms that the government is the central power in the legislative function, to which the Senate and Chamber only lend their complementary support, and that the *Duce* of Fascism, the Head of the Government, there as in every other field of activity, is the supreme stimulus."[20] Maurizio Maraviglia observed in his press comment that "the Fascist reform brings the legislative function within the scope of the government and puts an end to the outworn myth of the separation of powers."[21] This is the revised conception of the rôle of the chambers in the legislative process, finding expression in the new law, as follows: "The Senate and the Fascist and Corporative Chamber collaborate with the government in the forming of the laws."[22] There is a sharp difference in emphasis between this and the definition of the legislative function found in Article 3 of the *Statuto* of 1848: "The legislative power is collectively exercised by the king and the two chambers. . . . "

With this new conception in mind, the law creating the Fascist and Corporative Chamber also revises the legislative procedures to be observed in future in both the Senate and Chamber; and on the basis of the new law, the Chamber adopted a new internal *regolamento* (*règlement*) on December 14, 1938,[23] and a new *regolamento* was adopted by the Senate on December 21.[24]

The work of the two chambers is performed either (1) by their plenary sessions or (2) by their legislative commissions. The customary legislative procedure is retained without great change for certain specified types of bills, where the plenary session of each house takes action on the reports of its standing commissions, following the introduction of government projects or private members' bills. All other types of bills are referred to an appropriate legislative commission which acts *definitively* for the one chamber, and then refers the bill to the corresponding commission of the other chamber for its action. Such a bill, passed by commissions in both chambers, and signed by the presidents of both chambers, is submitted through the office of the Head of the Government for the royal signature, whereupon it becomes a *law* in the strictest sense, even though there has been no vote in the plenary session of either chamber. The legislative commissions of the chambers have, in these instances, representative

[20] C. D. Doc. 2655-A, cited. [21] *La Tribuna* (Rome), December 15, 1938.
[22] Law, January 19, 1939, cited, art. 2.
[23] *B. P.*, XII (December, 1938), 82–97, in 71 articles.
[24] *Ibid.*, pp. 100–110, in 58 articles.

powers comparable to those exercised by the committees of the British Privy Council. This is further evidence of a general tendency in Italy toward circumvention of the ponderous formal machinery of the Fascist régime by diverting projects to less devious committee channels. Early in 1937, for example, sub-committees were authorized to perform the advisory functions regularly assigned to the councils of the corporations and to provincial councils of corporative economy.[25]

For convenience, the bills in these two categories may be described as (1) plenary bills (requiring approval by plenary sessions) and (2) commission bills (requiring approval only by legislative commissions). Bills of five different types fall within the plenary classification:[26] (1) bills of a constitutional character as defined in Article 12 of the law of December 9, 1928, on the Fascist Grand Council;[27] (2) bills relating to the subjects enumerated in the last paragraph of Article 1 of the law of January 31, 1926;[28] (3) legislative delegations of a general character; (4) the budgets and accounts of the state and of any public enterprise or administrative agency of national scope which is directly or indirectly financed by the state budget; and (5) any other bill (a) for which the government may request the use of the plenary procedure, or (b) for which a plenary session or commission of either chamber has requested that the plenary procedure be used and has obtained the approval of the *Duce*.

All other bills are acted upon by the legislative commissions of the chambers. Here, however, action must be taken by the commission within thirty days after the bill has been laid before it; otherwise, the government is authorized to give effect to its proposed action by means of royal decrees. In his discretion, the *Duce* may also set the same time limit on the deliberations of the plenary sessions.[29] The government is free to suspend the regular procedures and to proceed by royal decree in the event of an emergency created by war or by financial or revenue difficulties, though when action is taken by decree under any such conditions,

[25] R.D.-L., January 14, 1937, no. 234, *G. U.*, March 16, 1937, no. 63; R.D.-L., January 18, 1937, no. 235, *idem.* [26] Law, January 19, 1939, art. 15.

[27] No. 2693, *G. U.*, December 11, 1928, no. 287. Bills dealing with the following subjects are recognized as "constitutional": (1) succession to the throne, and the powers and prerogatives of the crown; (2) the composition and function of the Grand Council, the Senate, and the Chamber of Deputies; (3) the powers and prerogatives of the Head of the Government; (4) the power of the executive authority to issue decrees; (5) syndical and corporative organization; (6) relations between the state and the Holy See; and (7) treaties modifying the boundaries of the state and the colonies, or which surrender territories.

[28] Cited. The following subjects are listed: (1) expenditures for certain administrative functions; (2) regulations concerning the judicial authority; (3) the organization of the Council of State and the Court of Accounts; and (4) the protection of magistrates and other unremovable officers.

[29] Law, January 19, 1939, arts. 16, 17.

the government must comply with the regular procedures for obtaining subsequent legislative concurrence.

Within each chamber, presidents appointed by royal decree are given full power over the membership of the various commissions. In the new Fascist and Corporative Chamber, there are 14 commissions: the commission on the *regolamento* (15 members), the general budget commission (40 members), and 12 "legislative" commissions, i.e., (1) foreign affairs, (2) internal affairs, (3) Italian Africa, (4) justice, (5) armed forces, (6) national education, (7) public works and communications, (8) agriculture, (9) industry, (10) exchange and customs legislation, (11) popular culture, and (12) professions and arts.[30] The president of the Chamber determines the size of the commissions, which have from 25 to 40 members each, appoints their presidents, vice-presidents, and secretaries, and also has full power to decide to which of the commissions a particular item of legislative business shall be referred.[31] The new regulations abolish the bureau system of selecting the members of committees and deprive the commissions of the power which they formerly enjoyed of selecting their own officers and of controlling their internal organization.[32]

The commission system of the Senate is almost identical, although the number of legislative commissions is reduced to eight.[33] Aside from the commissions on the *regolamento*, the library, and the budget, the legislative commissions of the body are the following: (1) foreign affairs, exchange and customs legislation, (2) internal affairs and justice, (3) Italian Africa, (4) armed forces, (5) national education and popular culture, (6) public works and communications, (7) agriculture, and (8) corporative economy and autarchy. Senate legislative commissions consist of at least 30 members, and in each instance exact size and membership are fully controlled by the president of the chamber.

On most essential points, the commission and plenary procedures of Senate and Chamber conform to the same plan. Plenary sessions are open to the public, commission sessions invariably private. Voting by secret ballot is abolished, with open voting substituted—by show of hands, by roll-call, or by acclamation. The required quorum is presumed to be present when a session opens, and only the president of the chamber has power to raise the question.

Under the new dispensation, both the Senate and the Fascist and Corporative Chamber are continuing bodies, their members holding office by status rather than for terms. The practice of designating major legislative periods as "legislatures" will, however, be continued in the old

[30] *Regolamento C. F. C.*, art. 27. [31] *Ibid.*, arts. 28, 29.

[32] Compare *Regolamento* of the Chamber of Deputies, May 1, 1929, arts. 46–50, in *Manuale Parlamentare*, XXIX Legislature (Rome, 1934), pp. 95–97.

[33] *Regolamento del Senato*, arts. 28–46.

numerical sequence. A legislature may be terminated at any time by royal decree issued on proposal of the *Duce*, the same decree also setting the date for the opening of the next legislature. Each new legislature opens with a "royal" session of the combined Senate and Chamber, convoked to hear the Speech from the Throne. A single legislature, in turn, sits for a number of prolonged working periods, determined by decree of the *Duce;* but such working intervals are not designated as separate sessions. Even when the Senate and Chamber are not in session, their presidents may at any time summon the legislative commissions, which thus are enabled to take action on commission bills on a year-round basis.

In all countries there has been a steady increase in bureaucratic control of the form and content of legislation. On this point, observers of the new Italian system will be curious to see whether the designation of administrative officials—members of corporation councils and other bodies —as legislators will affect the unity of the administrative process. The new streamlined Italian legislature, however, has little to offer toward constructive solution of the problem which democratic states face in the modernization of their own governmental institutions.

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Methods of Appointment and Training in the British and Dutch Colonial Civil Services. The British colonial services include the government appointments in the tropical African colonies, British Malaya, Hong Kong, Ceylon, the islands in the Western Pacific, and occasional vacancies in Cyprus and Palestine. The services fall into two groups, the Administrative and the Specialized or Technical Services such as police, education, medical, engineering, agriculture, forestry, and irrigation. The Administrative Service includes virtually all appointments concerned with the formation or supervision of policy from the probationer at about $2,000 to the colonial secretary whose salary varies between $7,000 and $13,650 according to the importance of the colony. The former is a newly appointed official who assists the officer administering a district of several thousand square miles. The latter is a man of some 25 years' service who controls the technical as well as the administrative departments, and is the principal civil servant in the colony apart from the governor. The average official who has not been promoted to the highest posts receives a salary of about $5,000 after twenty years of service.[1] Appointments are made by the Secretary of State for the Colonies to all positions with an initial annual salary of $2,000 and upwards, and the

[1] *Colonial Service Recruitment No. 2: Information Regarding the Colonial Administrative Service and Financial Appointments, with an Introductory Section Regarding Educational Appointments* (Colonial Office, 1936), pp. 16–29.

appointees in the great majority of cases are British subjects of European descent. Positions carrying a salary of less than $2,000 are usually filled by the various colonial governments from natives of the dependency. These subordinate posts include the great majority of those in the administrative and technical departments, such as school teachers, office clerks, police constables, and laborers.

The Dutch and French colonial services closely resemble the British in that the great majority of the policy-forming positions in the administrative and technical departments are held by Europeans and the subordinate posts by natives of the dependency. The French fill a few of the higher appointments with natives who have been assimilated and have received French citizenship; but by way of contrast Frenchmen hold many of the subordinate positions with a low salary which in a Dutch or British colony would be filled by natives of the country. The Dutch appoint to the higher positions not only a small minority of Javanese but also a somewhat larger group of Eurasians who have been educated in Holland; while the British restrict half-castes to subordinate posts.

During the past few years, two important changes have been introduced into the British colonial services. One is the abolition in 1932 of the open competitive examination for appointment to the Administrative Service, and the other is the unification of the Administrative and most of the Technical Services between 1932 and 1935. Prior to this date, entrance to the Eastern cadetships, i.e., Hong Kong, British Malaya, and Ceylon, had been by competitive examination, and into the tropical African administration by selection. The principal reason for the change was the growing doubt whether an examination measured anything save powers of memory and the ability to deal with problems on paper. Success was no proof that the candidate possessed the still more essential qualities of, for example, common sense, self-reliance, and the ability to win the confidence and liking of the native population. The results of appointment by selection to the tropical African administrations had been excellent; and it was believed also that the absence of an examination was one reason why the majority of candidates preferred them to the Eastern cadetships. In 1932, selection replaced examination as the method of appointment; but no alteration was made in the qualifications required. Under the new system, as under the old, the candidate in practice must have a B.A. degree with first class honors from an approved university in Great Britain or the Dominions—in other words, a broad liberal education. In contrast to the semi-specialized course of preparation required for entrance to the French colonial services, a British prospective candidate is advised "to read for the course in honors which attracts him most and in which he is most likely to do well." "Undue specialization with a view to entering the colonial Administrative Service is to be deprecated,"

though an undergraduate who is "naturally attracted" by such useful subjects as anthropology or law is advised to study them. In most instances, a candidate must be between the ages of 21 and 25, which allows time to complete his university career and handicaps the applicant who has failed to do so. The candidate must submit his university record, together with testimonials and references from university authorities or others who can speak from personal knowledge of his ability and character. A candidate is interviewed by the Colonial Office Appointments Committee, which includes the civil service commissioners and also civil servants with colonial experience who are in a position to gauge his probable aptitude for tropical administration. A selected candidate or probationer is then required to pass a strict medical examination, after which he attends Oxford or Cambridge University for one year.[2]

The course of study is intended to give the probationer a knowledge of the fundamentals of his life's work before he is sent to the tropics. The subjects include civil, criminal, and Moslem law, native languages, anthropology, the history and geography of the British Empire, the colonial system of accounts, first aid, and the elements of tropical agriculture, hygiene, forestry, field engineering, and surveying. These last five subjects are included because an official administering a district must supervise and coöperate with the agricultural, forestry, and other technical officers. The probationer receives a grant of $1,125 and may forfeit his appointment if he fails to pass the examinations at the end of the year. On arrival in his colony, he is attached for two or three years to one of the departments in the central administration, or to the staff of an officer administering a district, in order to learn the work of administration by actual practice under supervision. He also continues his study of the native language, the government providing books and a teacher. Failure to make satisfactory progress after due warning may entail dismissal from the service. The probationer's appointment as an administrative officer does not become permanent until he has passed his examinations in the vernacular and the official supervising him has reported favorably on his work in native administration.[3]

The basic requirements for entrance to the Administrative Service are a high degree of general education, combined with those qualities of character which in the experience of the Colonial Office make for success in the government of tropical races. One reason for this attitude is the strong British belief that "men who have been engaged up to 21 or 22 in 'liberal' studies will generally be found, in the business of every profession, superior to men who have at 18 or 19 devoted themselves to the special studies of their calling." Candidates are therefore advised to "develop their minds on the lines of the best and broadest education that is avail-

[2] *Op. cit.*, pp. 7–12. [3] *Op. cit.*, pp. 13–26.

able and which suits their individual inclination and capacity." Furthermore, the number of annual vacancies is limited (about 67 in 1935), and the Colonial Office wishes to make its choice from among as large a number of first-class candidates as possible. It feels that a wide field of selection can best be attained if "their University education should be such as to be of general value to them in other careers if they fail to obtain a Colonial appointment." Graduates can thus take the entrance tests, as it were, in their stride, and if they fail can enter some other vocation without loss of more than the few weeks which elapse between leaving the university and the annual meeting of the Colonial Office Appointments Committee. Specialized training before appointment would reduce the number of entrants, since the vacancies are few and proficiency in tropical languages or laws would be useless outside the colonies.[4] The first year of training is spent in England because experience has shown that the probationer makes more rapid progress later if he has been free to devote his whole time to study of the fundamentals, undisturbed by the distractions of office work and of life in a strange and exotic country. Once the basic elements have been acquired, however, proficiency in the vernacular and in administration can be learned only by practice, and so the probationer is transferred to the tropics. The period which has elapsed since the method of appointment was altered from competitive examination to selection is too brief to form any very definite conclusions as to the relative caliber of the appointees, the senior of whom have only recently ceased to be probationers. Colonial officials hazarded the opinion that the character of the two types seemed to be much the same. A comparison is possible in the case of the Indian administrative service, since prior to 1855 probationers were nominated and after that date appointed by open competitive examination. The type of civil servant seems to have been very much the same under both systems of selection.

The open competitive examination which was formerly required of candidates for the Dutch colonial services has been abolished. Candidates are selected by a government committee from the graduates of secondary schools on the basis of their academic record and qualities of character. They receive a government grant while attending a five years' course at the University of Leiden or of Utrecht. Students who hope to enter the colonial legal service follow Course A, which consists of two years of liberal arts studies followed by three years of law, native languages, anthropology, tropical economics, and comparative colonial history. Candidates for the Administrative Service take Course B, viz., two years of law followed by three years of specialized colonial studies similar to the above but given in greater detail. Those who pass the university's final competitive examination spend from one to two years in the colonies as

[4] *Op. cit.*, pp. 11–12.

probationers before their appointments are confirmed. The Dutch system resembles the British in that appointment is by selection and no longer by examination, and that the educational requirement is based upon the ordinary school curriculum, so that no specialized preparation is necessary before a candidate can compete. It is similar also in that technical training follows provisional appointment, and that there is a period of probation in the colony before the appointment is confirmed. The principal differences are that Dutch candidates are chosen after they have completed their secondary education, which would roughly correspond to the stage reached by the graduate of an English public (i.e., secondary) school or an American junior college; and that their specialized training is far longer and more intensive. So far as university studies can teach the profession of colonial administration, the Dutch probationer is a far more highly trained specialist than the British. On the other hand, the British probationer has had a much broader education, and his year of specialized colonial studies has given him the fundamentals of a profession, success in which is largely dependent upon practical experience. One is, however, inclined to feel that while the Dutch specialized preparation is too long, the British is too short. To cite one example, the Dutch, like the French, include in their training the study of comparative colonial history. Few things impress the visitor to Malaya and the Philippines more forcibly than the frequent similarities between their problems and those of adjacent colonial powers, combined with the lack of knowledge of the problems and policies in other dependencies. Useful hints can sometimes be drawn from failure even more than success, in that the former often shows how not to do it. The Dutch educational system in Java, for example, has had a considerable degree of success. It is based partly on a study of the Indian and Philippine systems as examples of the undesirable effects of too much literary and too little technical education, combined with over-emphasis of Western culture to the detriment of the best elements in indigenous native civilization.

Candidates for the British technical services are selected by the Colonial Office Appointments Committee on the basis of their university record, practical experience in their profession, and the Committee's impression of their suitability for tropical employment. Candidates are usually required to have an honors degree in their special field from an approved British university. Specialized colonial training and a period of probation in the colony follow provisional appointment. This description applies to the unified services, which are the medical, agricultural, forest, legal and colonial audit, and to the personnel of the education, survey, mines, railway, and public works departments, who are appointed to a specific dependency and do not belong to unified services. Police and customs and excise officers are appointed also to a particular

colony, and do not belong to a unified service. They are similar to the officers of the other technical services in the method of selection by the Appointments Committee, the specialized training after appointment, and the period of two or three years' probation which follows their arrival in the dependency. The difference lies in the lower educational qualification: they must be between 19 and 22, have completed their secondary education, and have passed the matriculation examination admitting them to an approved British university. These are the same educational qualifications required of entrants to Sandhurst and Woolwich, the colleges which train the officers of the Imperial army.[5]

The unification of the administrative and most of the technical services between 1932 and 1935 has introduced a change into the British colonial services the value of which it is difficult to gauge. The Dutch have no such problem, since practically all of their officials serve in the Netherlands East Indies, a homogeneous area when compared with the British tropical dependencies. Prior to 1932, each British dependency had its separate administrative and technical staff, and there were very few transfers of officials from one colony to another, save occasionally in the case of department heads. The system had the great advantage that a civil servant could become thoroughly familiar with the language and customs of the native race amongst whom he spent the 30-odd years of his official career. The disadvantage was that the adequacy of a colony's personnel depended not upon its needs but upon its revenue. The government of Great Britain and the British taxpayer have little enthusiasm for supplementing colonial revenues by Imperial subsidies, as was done for some years in Palestine. Normally, each colony must subsist on its own revenue, the whole of which is spent upon the needs of the dependency. This meant in practice that a wealthy dependency like Nigeria had a large official personnel with adequate salaries and good prospects of promotion; while a poor West Indian colony might have an inadequate staff and be unable to establish necessary but expensive posts, e.g., in agricultural or medical research. The natural result was that the great majority of candidates for a government appointment were unwilling to serve in the poorer colonies and tried to enter the tropical African services. This produced the further consequence in the poorer colonies that it was often difficult to find first-class men to fill vacancies in the senior posts, owing to the limited local field of selection.

Unified colonial services were established between 1932 and 1935 for administrative, legal, medical, agricultural, forestry, and veterinary

[5] *Colonial Service Recruitment No. 1. The Colonial Service: General Information Regarding Colonial Appointments* (*Colonial Office*, 1936), *passim*. More detailed information concerning the various specialized services can be found in *Colonial Service Recruitment Nos. 3–8*, published by the Colonial Office in 1935–36.

officers. Officials may be appointed or transferred to any dependency at the discretion of the Secretary of State for the Colonies, although their preferences will be consulted as far as possible and an officer will not be compelled to transfer to an appointment with a lower salary than that which he already enjoys. The new regulation has been regarded with a good deal of apprehension by colonial civil servants lest a too liberal exercise of the power of transfer should impair the efficiency of administration. A district administrator who was an expert in the language, customary law, and tribal organization of the negro tribes of East Africa, for example, would be useless if transferred to a similar position in Hong Kong, with its Chinese population, until he had mastered their language and point of view. The effectiveness of French colonial administration has sometimes suffered from the undue tendency to frequent transfers. The new Colonial Office regulations, however, state that for many positions "local knowledge and experience are essential qualifications, and such posts would naturally be filled in the normal course by promotion within the Colony concerned. Candidates should realize that the prospects of inter-Colonial transfer . . . are necessarily limited by this factor" and "are unusual during the early years of an officer's career."[6] The new regulations have been in existence too short a time to pass judgment; but one may infer that the power of transfer will be exercised with discretion and in the field of fairly senior appointments, or of research posts in medicine, agriculture, etc., where the prime qualification is expert knowledge. A senior official such as the head of a department comes into contact principally with the leaders of native society, who as a rule speak English, and his initial ignorance of native customs in a new dependency would be offset by the advice of his subordinates who had spent their official lives in the colony. The various advisory committees of the Colonial Office on health, agriculture, education, and other social services maintain close touch with the needs of the various dependencies and the qualifications of the available personnel. They are thus in a position to transfer an appropriate expert to a colony which has a problem outside the scope of its existing officials. A few years ago, for example, it was necessary to reorganize and expand the Hong Kong medical service, and also to establish an anti-malarial bureau for research and preventive work. Two malaria experts from Malaya were transferred for the new bureau; but the medical officer in charge of the reorganization had to be a good administrator as well as an expert in malaria and public health. The Colonial Office Medical Advisory Committee selected from its personal knowledge of the men available the chief health officer of the Federated Malay States.

[6] *Colonial Service Recruitment No. 2*, p. 10.

Speaking broadly, British colonial civil servants impress one as hard-working, conscientious, and efficient. They have a practical rather than a theoretical bent, and are vastly more interested in a concrete problem such as the improvement of native rice cultivation than in speculations on, for example, the ultimate goal of empire. Moreover, the day's work is so long and exacting that it leaves little time or mental energy to consider questions outside the ordinary run of official duty. With very few exceptions, they are keenly interested in their work and zealous to improve the condition of the native populations. They regard this as their preëminent duty far more than the promotion of British economic interests, which are quite able to take care of themselves while the natives are not. Some are openly opposed to the development of Western enterprise in their districts, since they fear that native interests may suffer from the impact of the more efficient and aggressive European. They are perhaps skeptical as to the benefits of establishing a Western-style democracy, which means, as it has in the Philippines, that a foreign bureaucracy that has no axe to grind is replaced by the wealthy and influential Western-educated minority: it does not mean government by the native majority. There are few Western exploiters, even of the most hyper-predatory tendencies, who can equal the record of their native equivalents. The British official, therefore, like the Dutch, regards the establishment of democracy as perhaps inevitable, but equally of dubious value to the mass of the population.

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The Resurrection of Neutrality in Europe. The collapse of the League of Nations as an instrument of collective security has called forth a series of politico-legal reactions, of which perhaps the most symptomatic of the crisis in the international order is the new neutrality policy of the small European states. This new policy was prompted by the collapse of the League of Nations sanctions against Italy. After withdrawal from the League had been seriously discussed in some of the small European states,[1] and just before the lifting of the sanctions against Italy by the League, Belgium, Denmark, Finland, Norway, Sweden, the Netherlands, Spain, and Switzerland published a joint declaration,[2] on July 1, 1936, containing in a veiled form a cancellation of the obligations under Article 16 of the Covenant of the League. "The aggravated international situation and the cases in which in recent years under violation of the Covenant of the League of Nations resort was taken to violence," it was stated, "have given rise to grave doubts in our minds whether the premises under which we had taken upon ourselves the obligations contained in the Covenant still continue to exist to a satisfactory extent. In our opinion it cannot be admitted that certain articles of the Covenant of the League . . . remain a dead letter whereas other articles are applied. . . . Although we call attention to the principles of interpretation adopted in 1921 with regard to the application of Article 16 of the Covenant, we declare that as long as the Covenant in its entirety is applied only in an incomplete and inconsistent manner, we are obliged to take this fact into account in applying these articles." On March 17, 1937, the Dutch foreign minister, de Graeff, referring to this declaration, stated in the Dutch upper house[3] that Article 16 of the Covenant could not oblige the members of the League to take part in sanctions that might injure their own vital interests. In a sensational speech, the Swedish foreign minister, Sandler, on November 7, 1937, in Upsala went so far as to assert[4] that Article 16 of the Covenant no longer had any legal validity. "A law which is not binding for everybody and on every occasion has

[1] *New York Times*, May 7, 25, 28, 1936.

[2] *Société des Nations, Journal Off., Supp. Spécial*, No. 154, p. 17, 18; *Neue Zürcher Zeitung*, July 2, 1936.

[3] *Algemeen Handelsblad*, March 18, 1937. Van Hamel, one of the leading Dutch experts in foreign politics, states the matter yet more clearly ("Can the Netherlands be Neutral?," *Foreign Affairs*, Vol. 16 (1938), p. 339): "More and more she is coming back to the fundamental principle of neutrality which, after long experience with other policies, she took as her guiding doctrine in the 19th century. . . . She is coming back to this attitude deliberately, by the force of circumstances, after a brief sojourn in that quite different atmosphere of collective security which the Covenant of the League of Nations for a time engendered in Europe."

[4] *Neue Zürcher Zeitung*, November 14, 1937.

ceased for the present to be a law." In view of this state of affairs, Sandler claimed the right for Sweden," even contrary to other Powers, to maintain freedom of action and independent judgment as required by the political insecurity and the vital interests of Sweden." The conference of the foreign ministers of the Scandinavian states assembled on April 5 and 6, 1938, in Oslo, and resolved to resort to military, economic, and propagandist measures necessary for the pursuit of a common neutrality policy.[5] In January, 1938, the representatives of Switzerland, the Netherlands, and Sweden, in the Committee of Twenty-eight on the reform of the League of Nations, declared that in their opinion the provisions of Article 16 had no longer any binding force.[6]

This tendency toward the reëstablishment of the traditional neutrality has reached particular intensity in Switzerland, and has achieved its first complete success with regard to this country. Federal Councilor Motta declared on August 1, 1937, in a speech made at the celebration of the Swiss Confederation,[7] that Switzerland must again return to her traditional unrestricted neutrality; and in November of the same year a considerable group of influential Swiss citizens announced a popular initiative,[8] the objective of which was clearly stated: "By popular referendum, the well-tested unrestricted neutrality is to be reëstablished, excluding Switzerland's participation in any international compulsory measures." Prompted by this popular movement, Motta declared, on December 22, 1937, in the National Council under unanimous consent of Parliament,[9] that Switzerland must give up the policy of "differential neutrality" which she had pursued since her adherence to the League of Nations, and that she must return to her traditional complete neutrality. Stimulated by the shock of the annexation of Austria by Germany, in a solemn session of Parliament the Federal Council and all parties renewed this declaration.[10] On the occasion of the sessions of the League Council

[5] *New York Times*, April 7, 1938; *Neue Zürcher Zeitung*, March 3, April 19, 1938; *Aftonbladet*, April 5, 1938.

[6] *New York Times*, February 1 and 2, 1938; *Neue Zürcher Zeitung*, January 27 and 28, 1938; *League of Nations Doc.*, A7 (1938), VII. Identical statements have recently been issued by Poland (*New York Times*, July 14, 1938, August 12 and 14, 1938; *Neue Zürcher Zeitung*, April 19, May 29, August 5, 1938), Esthonia (*Neue Zürcher Zeitung*, June 20, July 19, 1938), and Finland (*New York Times*, May 22, 1938); cf. also Pusta, "Le Problème de la paix nordique," *Revue de droit international*, Vol. 21 (1938, no. 2), p. 350, and Genet, "La Réhabilitation de la neutralité et la déclaration commune des pays du Nord du 27 mai 1938," *Affaires étrangères* (1938) p. 331; *New York Times*, December 24, 1938. Corresponding steps were taken by Belgium after the collapse of the Treaties of Locarno, which are aimed at the reestablishment of an international status at least similar to the former neutrality.

[7] *Neue Zürcher Zeitung*, August 2, 1937. [8] *Ibid.*, November 15, 1937.

[9] *New York Times*, December 23 and 25, 1937; *Neue Zürcher Zeitung*, December 23, 1937. [10] *Neue Zürcher Zeitung*, March 22 and 28, 1938.

of January and May, 1938, Switzerland took official steps toward this new policy of neutrality, and on May 14, the League Council voted a resolution which reads: "The Council of the League of Nations . . . takes note that Switzerland, invoking her perpetual neutrality, has expressed the intention not to participate any longer in any manner in the putting into operation of the provisions of the Covenant relating to sanctions and declares that she will not be invited to do so."[11] After his return to Sweden, Sandler, who had reported to the Council on the Swiss question, praised this resolution as "the most positive result" of the 101st session of the Council and expressed the conviction that it and the debates preceding it were not at all prejudicial to eventual steps by other members of the League, but rather had strongly reinforced the attitude that Sweden had taken in the Committee of Twenty-eight.[12]

This optimism, however, did not prevail in the public opinion of the countries concerned. The representatives of the Great Powers in the Council of the League, as well as the report submitted to the Council on the Swiss question, laid the greatest stress upon Switzerland's unique position and the therefore singular character of the recognition of Switzerland's integral neutrality within the framework of the League, which other members could not invoke as a precedent.[13] The formal recognition of a neutral status within the framework of the League, restricted to one state, must of necessity prejudice the position of other states which thought that they had already attained the same legal status by unilateral declarations. Therefore, public opinion, especially in the Scandinavian countries, demanded with increasing vigor the formal recognition by the League of Nations of complete freedom of action for the respective states with reference to the application of sanctions.[14] This demand found official expression in the resolution which the so-called Oslo Powers—Denmark, Norway, Sweden, Finland, the Netherlands, Belgium, and Luxemburg—

[11] *League of Nations, Official Journal*, May–June, 1938, p. 369; cf., also, *New York Times*, January 31, May 1, 5, 15, 17, 1938; *Neue Zürcher Zeitung*, January 31, February 1, March 16 and 17, April 22, May 1, 2, 5, 6, 8, 9, 10, 11, 12, 13, 16, 17, 1938. On the problem of Switzerland's neutrality, see Rappard, "Switzerland in a Changing Europe," *Foreign Affairs* (July, 1938), p. 679; Schindler, "La Neutralité Suisse de 1920 à 1938," *Revue de droit international et de législation comparée* (1938), p. 433; Dollot, "La Crise de neutralité permanente. La Neutralité Suisse," *Affaires étrangeres* (1938), p. 396; Morgenthau, "The End of Switzerland's 'Differential' Neutrality," *Amer. Jour. of Internat. Law* (1938), p. 558; *London Times*, July 3, 1938.

[12] *Neue Zürcher Zeitung*, May 20, 1938; cf. also *ibid.*, May 8, 1938, on the attitude of the Swedish press. [13] See Morgenthau, *loc. cit.*, pp. 561, 562.

[14] See the resolutions adopted by the Norwegian Parliament on May 31, 1938, and the Swedish Parliament on June 17, 1938 (*New York Times*, June 1, 1938; *Neue Zürcher Zeitung*, June 3, 1938). Cf. the reports in *Neue Zürcher Zeitung*, May 8 and 27, June 21, September 12, 1938.

adopted at a conference held in Copenhagen on July 23 and 24, 1938,[15] and from which the following paragraph may be quoted: "Convinced that their countries ought to continue their coöperation in the work of the League of Nations, the Foreign Ministers state that their Governments are determined for the future to keep to the course which they have drawn for themselves by their declarations according to which under present conditions and the practice followed during the last years the system of sanctions has acquired a non-compulsory character. They are of the opinion that this non-compulsory character of sanctions should apply not only to a particular group of States, but to all members of the League. They are convinced that it is in the interests of the League itself that this liberty of decision is formally acknowledged. In this spirit they are preparing for the discussion of the report put before the Assembly by the Committee of Twenty-eight."

The interested states, however, did not completely succeed in carrying through their purpose. The Nineteenth Assembly of the League of Nations, in its meeting of September 30, 1938, did not vote on a resolution expressly recognizing the non-compulsory character of Article 16 of the Covenant. Rather it confined itself to taking note of the declarations made during the session by the different governments, and to transmitting them to the members of the League. Nevertheless, as the great majority of those declarations were more or less in accord with the standpoint of the small European states,[16] and as the system of collective security laid down in Articles 10, 11, and 16 of the Covenant had suffered a complete and evidently definite breakdown during the Czechoslovakian crisis, there can be no doubt that the neutrality of the small European states within the framework of the League is now firmly established, if not as a matter of legal wording, certainly as a matter of legal practice.

This marks the final step in a development away from collective security—a development which within the League was promoted from the very beginning by the group of small European states (Denmark, Norway, Sweden, the Netherlands, Switzerland),[17] and of which these states,

[15] *New York Times*, July 23, 24, 25, 1938; *Neue Zürcher Zeitung*, July 25 and 29, 1938.

[16] *League of Nations, Journal of the 19th Session of the Assembly*, 3rd, 4th, 5th Plenary Meeting; *New York Times*, September 11, 17, 22, 23, 24, 25, October 1, 1938; *Neue Zürcher Zeitung*, September 9, 14, 18, 22, October 2, 1938.

[17] These states form the specific group of European neutrals within the League of Nations which have here pursued on the whole an identical policy. This group has been joined from time to time by Belgium, the Baltic states, Finland, and Spain, which, however, cannot be considered as permanent members of the group, owing to their particular international positions. As to the policy of the small countries within the League of Nations, see Rappard, "Small States in the League of Nations," *Polit. Sci. Quar.* (1934), p. 544.

ironically enough, have themselves become the victims. They share with the Great Powers the responsibility for many of the fundamental mistakes which have been made at Geneva, and they were among the first to suffer from them. These small countries have justly been called "the traditional European neutrals,"[18] "the professional neutrals," for which neutrality has the character of a "constitutional dogma."[19] The policy of these states, from the inception of the League until our day, has unalterably centered upon one goal: to keep themselves, within the League, aloof from the power politics of the great nations and from the military entanglements that might result therefrom—that is, to continue the traditional policy of neutrality. However, membership in the League and the carrying out in spirit and letter of Articles 10, 11, and 16 of the Covenant is not compatible with the traditional neutrality of the small European countries.[20] From the political point of view, the new order of the League presented itself as an alliance of everybody with everybody, which directly continued the victorious alliance of the World War, destined to safeguard the status quo created by the peace treaties and aimed

[18] Jessup, *Neutrality; Its History, Economics, and Law*, Vol. 4 (New York, 1936), p. 179.

[19] Paul de Lapradelle, in *International Studies Conference: La Sécurité collective* (Paris, 1936), p. 432.

[20] Cf. Alvarez, *L'Organisation internationale* (Paris, 1931), p. 156; Barandon, *Le Système de la Société des Nations pour la prévention de la guerre* (Genève-Paris, 1933), pp. 344 *et seq.;* Borchard, "Neutrality," *Yale Law Rev.*, Vol. 48 (1938), p. 37; Borchard and Lage, *Neutrality for the United States* (New Haven, 1937), pp. 258, 261, 269; Coudert, in *Proceedings of the Academy of Political Science*, Vol. 16 (1935), pp. 47, 48; Eagleton, "Neutrality and the Capper Resolution," *New York Univ. Law Rev.*, Vol. 6 (1929), p. 346; Garner, "The Outlook for the Law of War and of Neutrality," *Transactions of the Grotius Society*, Vol. 22 (1937), pp. 8, 9, and "Le Développement et les tendances récentes du droit international," *Recueil des cours de l'Académie de la Haye* (1931, Vol. 1), pp. 712, 713; Graham, "The Effect of the League of Nations Covenant on the Theory and Practice of Neutrality," *Calif. Law Rev.*, Vol. 15 (1927), p. 373; Graham, "Neutralization as a Mouvement in International Law," *Amer. Jour. of Internat. Law*, Vol. 21 (1927), pp. 84 *et seq.*, 94; *International Studies Conference, op. cit.*, pp. 418 *et seq.;* Jessup, *op. cit.*, p. 177; Lauterpacht, "Neutrality and Collective Security," *Politica* (November, 1936), p. 133; Miller, "Sovereignty and Neutrality," *International Conciliation*, no. 220 (1926), pp. 284, 285; Politis, *La Neutralité et la paix* (Paris, 1935), *passim;* Quincy Wright, "The Future of Neutrality," *International Conciliation*, no. 242 (1928), pp. 358 *et seq.*, 369; Whitton, "La Neutralité et la Société des Nations," *Recueil des cours de l'Académie de la Haye* (1927, Vol. 2), p. 533; Norman Wait Harris Memorial Foundation Lectures, *Neutrality and Collective Security* (Chicago, 1936). Cf. the bibliography in Strupp, "Neutralisation, Befriedung, Entmilitarisierung," *Handbuch des Völkerrechts*, Vol. 2, (Stuttgart, 1933), pp. 349 *et seq.* The problem was discussed in detail in the debates of the American Society of International Law in the years 1930, 1933, 1935 (cf. the *Proceedings* of the Society for those years), and in those of the International Law Association in the years 1930, 1932, 1934 (cf. the *Reports* of the Association for those years).

against the presumptive aggressor, as the not yet individually designated enemy. The moral basis of the new order was the duty of solidarity in support of the victim of unlawful aggression, and the legal idea on which the new order was based was the distinction between lawful and unlawful warfare and the obligation of active coöperation with those waging lawful war. The political condition of neutrality, on the contrary, is the system of balance of power, that is, the opposition of various almost equally strong groups of Powers, which either have no interest at all in including the neutral state in the Power combination or whose interest cannot prevail against the fear of the risk that might result from this inclusion. The position of the non-participating spectator, which is that of the neutral in the midst of these rival Power groups, manifests itself morally in the duty of impartiality, and legally in an abstention rejecting both belligerent parties, without consideration for the righteousness of the cause of either.

Between confederacy and aloofness, partiality and impartiality, intervention and abstention, lies a logical gulf which the juridical keenness of the interpreters of the Covenant has only barely been able to bridge by makeshifts difficult of access and until now never trod on.[21] This task, with which the traditional European neutrals have been confronted ever since, on March 20, 1919, in the Hotel Crillon in Paris, they submitted their suggestions for the drafting of the Covenant, has been facilitated for these countries by the circumstance that the logical conflict between neutrality and membership in the League of Nations has never developed all of its potentialities within the policies of the League. The principles of collective security, as stipulated in Articles 10, 11, and 16 of the Covenant, have never been applied to the full extent of their text and spirit,[22] and a destructive interpretation has taken from them more and more of their legal and political substance. Each weakening of collective security, however, means automatic strengthening of neutrality. "Neutrality and collective security," it has been rightly stated,[23] "are complementary concepts; the more there is of the one, the less there is of the other." Thus the complete collapse of collective security in the crises of recent years finally brought about the automatic renewal of neutrality as a political fact, less created by the declarations cited above than brought by them to legal recognition.

The policy of the small European states within the League, in the well-understood interest of the preservation of their own neutrality within a system of collective security, had to be directed toward two goals: first, to prevent the return of the system of balance of power which, in con-

[21] Cf. against these efforts, in particular, Graham, *Calif. Law Rev., loc. cit.*

[22] Jessup, *op. cit.*, p. 150.

[23] Lauterpacht, in *International Studies Conference, op. cit.*, p. 441.

nection with a system of collective security, must of necessity involve the small European states in the political and military entanglements of the Great Powers; and second, to restrict as much as possible their own obligations within the system of collective security. The small European states were well aware of the political necessity for these two aims, but they failed to apply the means which could have led to their realization; for on the one hand they permitted themselves to be misled by the legalistic-pacifist ideology with which the "spirit of Geneva" knew how to disguise the political reality, and on the other hand, in their reasonable endeavor to lessen their own risks, they contributed to the destruction of the politico-legal instrument on which their own security partially depended.

The policy of the small European states in the League corresponded —except in this latter point—to the official ideology of Geneva: it aimed to substitute political decisions by legal institutions, and therefore attempted, by means of the universality of the League, arbitration, and disarmament, to prevent the breaking up of Europe into antagonistic Power groups and thereby the return of the system of balance of power.[24] The existence of political conflicts, however, is independent of the existence of political forms of organization. Experience has shown that the membership of two states in the League of Nations does not offer any guaranty that no political conflicts can arise between these states, and that, once arisen, they can be solved amicably by the League. Arbitration, moreover, does not serve to solve international conflicts whose bases are, not legal differences of opinion, but those international "tensions"[25] which are never really covered by international law, and which make up the substance and the distinguishing character of political conflicts. And finally, disarmament as such does not prevent the danger of wars, and is

[24] Cf. Bellquist, "Some Aspects of the Recent Foreign Policy of Sweden," *University of California Publications on International Relations*, Vol. I, no. 3 (Berkeley, 1929), *passim;* Eagleton, "Reform of the Covenant of the League of Nations," in this REVIEW (1937), pp. 459 *et seq.*, 470 *et seq.;* Rappard, *loc. cit.*, pp. 572 *et. seq.;* Rappard, *The Government of Switzerland* (New York, 1936), pp. 141 *et seq.*, and *Die Politik der Schweiz im Völkerbund, 1920–1925* (Chur-Leipzig, 1925); Motta, *Preface* to Rappard, *L'Entrée de la Suisse dans la Société des Nations* (Genève, 1924), pp. III, IV; van Vollenhoven, "Holland's International Policy," *Polit. Sci. Quar.* (1919), pp. 204, 205; Jones, *The Scandinavian States and the League of Nations* (Princeton, 1939), *passim.* Particularly illuminating for the policy of the small European states within the League are the contributions of prominent representatives of these states to a work published by Rask-Orstetfonden, *Les Origines et l'oeuvre de la Société des Nations* (1923).

[25] On the theory of international "tensions," see Morgenthau, *Die internationale Rechtspflege, ihr Wesen and ihre Grenzen* (Leipzig, 1929), pp. 59 *et seq.*, and *La Notion du "politique" et la théorie des différends internationaux* (Paris, 1933), pp. 37 *et. seq.;* Ray, *Annales sociologiques*, série C, no. I (1935), pp. 163 *et seq.*

impossible to accomplish as long as there is no objective, general standard that could be applied to the mutual military forces.[26]

Beyond that, the group of small European states has always endeavored to give Article 16 of the Covenant a restrictive interpretation and to divest it of its automatic character. On every occasion—in the so-called Blockade Commission in 1920 and 1921, which, induced by the Scandinavian states, recommended a strongly restrictive interpretation of Article 16, in the Commissions of the Disarmament Conference, and recently in the Commission which attempted to reform the Covenant (altogether without success)—the small European states were active in weakening the sanctions of the League.[27] Although this policy was in the interest of their own neutrality policy, as far as the activity of these states within the framework of Article 16 was concerned, it was contrary to their own interests, in so far as it attempted to destroy the binding strength of Article 16 as such; and thus also with regard to the Great Powers. A far-sighted neutrality policy within the framework of the League would have sought freedom from their own obligations under Article 16, and the strengthening of those of the Great Powers. The destruction of the sanctions as such shattered the very foundations, not only of the League, but also of the neutrality policy within the League's framework.[28]

The maintenance of neutrality, in fact, depends only to a slight extent on the will of the small state desiring to remain neutral. Of course, such a state can remove a motive from the Great Powers for violating its neutrality by pursuing, with regard to their conflicts, a policy of abstention and impartiality, and by making its armed strength a serious factor in the military calculations of the great nations. The considerations which will always be decisive for the maintenance of neutrality, however, are whether the Great Powers have any interest in the violation of the neutrality of a small state, and whether in a given case the interest in this violation predominates over the fear of the risk that might result from such violation. To both of these considerations, in fact, the traditional European neutrals owe the maintenance of their neutrality during the period 1914–18. The strategic interests of Germany, Great Britain, and Russia, which collided on the territories of the three Scandinavian states, were in 1914–18 still beyond the reach of technical realization.[29] Germany's respect for the neutrality of Holland was the exclusive result of

[26] Cf. on this problem, Morgenthau, *La Notion du "politique,"* p. 76, and *Berliner Tageblatt*, 1932, no. 209.

[27] Cf. the quotations *supra* note 20, and Jessup, *op. cit.*, pp. 113 *et seq.*, and "American Neutrality and International Police," *World Peace Foundation Pamphlets*, Vol. 11 (1928), no. 3, p. 427; Munch, *La Politique du Danemark dans la Société des Nations* (Genève, 1931), pp. 14 *et seq.*

[28] Rappard, *op. cit.*, p. 6.

[29] Waultrin, "La Neutralité Scandinavienne," *Revue générale du droit international public*, Vol. 11 (1904), p. 5.

military-political considerations of expediency.[30] The neutrality of Switzerland, finally, was—as in the four centuries of its history—protected by the mutual consideration of France, Germany, and Italy that the Swiss defense of the Alpine passes against all warring nations was more valuable from the military standpoint than a given successful attack on them by their own armies.

The overwhelming military power which the World War gave to the Western European nations meant the end of the European balance of power, on which ultimately rested the neutrality of the small European states. Its heritage was thereupon taken over by the collective security of the League of Nations. Had the small European states remained aloof from the League, and had they endeavored to pursue their traditional policy of neutrality any farther, they would of necessity have been forced into closer relationship with the European non-members of the League —that is to say, the Powers defeated in the World War. They could not expect to derive any military aid from affiliation with this group, which would only have served to compromise them morally. Membership in the League promised them not only moral adhesion to the reigning politico-legal ideology, together with economic advantages, but also military protection. As long as the distribution of the military forces of the year 1919 was upheld among the great European powers, and as long as Articles 10, 11, and 16 of the Covenant were applied in accordance with their spirit and letter, this military protection at least was not inferior to the protection which the European balance of power would have afforded.[31] The application of the League sanctions against Italy became the conclusive test of the possible fulfilment of these promises. It showed the small European states that the risk resulting from the system of collective security was not compensated for by any strengthening of their own security. The Hoare-Laval Agreement and the liquidation of the experiment of sanctions opened their eyes to the fragile morality of the ideology of Geneva. With the application of sanctions by the League

[30] Kabisch, *Streitfragen des Weltkriegs*, 1914–1918 (Stuttgart, 1924), pp. 17, 42, 56 *et seq.;* Helmut von Moltke, *Erinnerungen, Briefe, Dokumente*, 1877–1916 (Stuttgart, 1922), pp. 17, 429 *et seq.;* van Hamel, *loc. cit.*, p. 346; Vandenbosch, *The Neutrality of the Netherlands during the World War* (1927), p. 4.

[31] Cf. Bellquist, *loc. cit.*, pp. 279 *et seq.;* van Hamel, *loc. cit.*, pp. 339, 340; and especially the *Message from the Federal Council of Switzerland Concerning the Question of the Accession of Switzerland to the League of Nations* (Cambridge, 1919). This message, which came from the pen of Max Huber, is the classical presentation of the political foundations of the League of Nations, in political wisdom and realistic penetration never equalled by succeeding interpretations of the Covenant. As to the relation between the sanctions of international law and the policy of balance of power, see Morgenthau, "Théorie des sanctions internationales," *Revue de droit international et de législation comparée* (1935), pp. 825 *et seq.*

against Italy begins thus the conclusive phase in the process of disillusionment of the small European states. The beginning of their new policy of neutrality is concurrent with the liquidation of this experiment. The complete change in the distribution of the military forces among the great European Powers has altogether destroyed the military-political foundations on which the active coöperation of the small European states within the system of collective security was based. The juridical undermining of this system, as provided for by Articles 10, 11, and 16 of the Covenant, with the assistance of the small European states themselves, as well as its practical abandonment in the policy of recent years, has taken away from this coöperation also its legal-moral justification.[32]

The small European states, returning to their traditional policy of neutrality, will not find the same conditions that prevailed before 1919. The balance of power has again become the basis of European foreign policy and European international law. But, because of the shifting of political power, of the moral breakdown of the international community, and of progress in war techniques, it has lost to a considerable extent its protective effect on the neutrality of the small European states.

First of all, the military-political balance to which these states primarily owed their neutrality until the end of the World War has changed basically, and has since then never been fully restored. While in 1919 the balance turned in favor of the Allied Powers, obliging the small European countries to associate with them, in 1938 the trend is reversed, thus confronting the "traditional European neutrals" with the alternative of following this trend or remaining isolated. The former course would, of necessity, mean the end of their neutrality, but the latter course no longer means its preservation. The protection which the small European states derived from their isolated position between the combinations of the Great Powers was the result chiefly of the common interest of rival Power groups not to interfere with the fundamental rights, especially the territorial integrity, of neutrals, and of the determination of each of these Power groups not to allow any such interference by the other group. The small European states, no longer able to count firmly on this determination on the part of all great European nations, lost that freedom of movement which had enabled them to use this interest and determination as a defensive weapon by which they could ensure themselves of the protection of one Power against an eventual aggression on the part of the other, and thus hold themselves unimpaired in the midst of the balance. Since the neutrality of the small European states is essentially a function of the balance of power, the upset of that balance in Europe and its replacement by a hegemonic or semi-hegemonic relation-

[32] Cf., as to the beginnings of this development, Kunz, in *Proceedings of the American Soc. of Internat. Law* (1935), p. 39.

ship among the European nations cannot fail to endanger, in 1938 as it did in 1919 and in the Napoleonic era, the neutrality of these states. This is particularly true of Switzerland. The military interests of the rival Power groups in a violation of Swiss neutrality no longer balance each other, so long as Germany's and Italy's military-political forces are united in relation to Switzerland. Their strategic interest in the joint use of the Alpine passes might prove considerably greater than the fear of having Swiss neutrality violated by France. It is significant in this connection that while Austria, Germany, and Italy were joined in the Triple Alliance, the Italian General Staff six times proposed to the German General Staff to march through Switzerland in a joint campaign against France, whereas, on the other hand, Plan XVII of the French General Staff provided for the occupation of a German railway station situated on Swiss territory (the Baden terminus in Basle).[33]

Furthermore, the moral and political philosophy which has been the foundation of international law from its very beginning is no longer recognized by all great nations, and hence no longer exerts its restraining influence. For although states are moved in their international actions by regard for their own interests, and will observe the rules of international law only so long as they serve these interests, the violation of the fundamental rights of other states has generally been held within certain bounds by a few moral principles to which the law of nations, as well as Western civilization as a whole, owe their existence. The contradiction between these two statements is only illusory; for these moral principles have been so powerful as to exclude from the sphere of political interests such aims as could be pursued only by violation of those fundamental rights. These moral principles delimited not so much the international actions in pursuit of political interests as the sphere of possible political interests itself, so that it did not even enter the mind of statesmen to regard as possible political interest what could be accomplished only in violation of those fundamental rights. These ethico-legal delimitations of the political sphere itself, especially effective in the nineteenth and early

[33] Cf. Paul Herre, *Die kleinen Staaten Europas und die Entstehung des Weltkrieges* (München, 1937), pp. 282 *et seq.;* Wolfgang Foerster, "Strategische Erwägungen des italienischen Generalstabs aus der Vorkriegszeit," *Berliner Monatshefte*, Vol. 11, p. 247; Ammann, Schweizer Monatshefte (1925), p. 465, (1933), p. 486; Feyler, *La Suisse stratégique et la guerre Européenne* (Genève, 1924); Zu der Luth, *Die Schweiz, ihre militärpolitische Lage vor und nach dem Weltkriege* (Charlottenburg, 1925). The reports of the British military attaché, Delmé-Radcliffe (see *British Documents on the Origin of the War, 1898–1914*, edited by G. P. Gooch and Harold Temperley) certainly exaggerate the importance and seriousness of those tendencies, which recently seem to have been revived (see the reports on planned actions against the Netherlands and Switzerland in *Journal des Débats*, March 8, 1939; *Neue Zürcher Zeitung*, March 9, 10, 12, 1939; *New York Times*, March 25, 1939, p. 5).

twentieth centuries, have been swept away by the totalitarian political philosophies and practices of recent years. This moral revolution, in which universal moral principles are superseded by particular political philosophies, cannot but deeply affect the situation of the "traditional European neutrals." The neutral's aloofness from political entanglements and the rules of international law protecting that aloofness become meaningless when international policies seek to dissolve national geographical units from within by combining the antagonism of classes and races with the traditional opposition of states, when the ethico-legal principles of non-intervention, independence, and equality become obsolete in the international field, and when the very concept of "domestic" affairs begins to disappear.[34]

Yet these new politico-moral tendencies become a real threat to the survival of neutrality in Europe by the fact that they have at their disposal—as pointed out above—superior politico-military power and a far-reaching war-machine, particularly fit for the support of boundless political aspirations. This progress in war-technique has weakened the protective effect of geographical factors which formerly were of additional value for the maintenance of neutrality in Europe. The Scandinavian states have come within technical reach of the military forces of the rival Power groups and are being included in their strategic calculations.[35]

[34] For the general aspect of the problem, see Kolnai, *The War Against the West* (New York, 1938), especially Chaps. 1, 3, 6, 8, 9; Rauschnigg, *The Revolution of Nihilism* (New York, 1939). Cf. Virginia L. Gott, "The National Socialist Theory of International Law," *Amer. Jour. of Internat. Law* (1938), p. 704; Lawrence Preuss, "National Socialist Conceptions of International Law," in this REVIEW (1935), p. 594. For practical consequences of this problem, it is illuminating that the German press has advanced a new concept of "intellectual neutrality" according to which true neutrality on the part of the "traditional European neutrals" requires abstention from any public or private criticism of totalitarian institutions and policies. These publications by the German press have induced the Swiss government to take diplomatic steps against this "falsification of the concept of neutrality"; see *New York Times*, January 13, 1939; *Neue Zürcher Zeitung*, December 18, 19, 1938, January 20, 24, 29, 1939; Dietrich Schindler, "Neutralität und Presse," *Neue Schweizer Rundschau* (January, 1939). Cf., also, *Giornale d'Italia*, February 19, 1939, supporting the German thesis, and the speech of the Swedish foreign minister Sandler (*New York Times* and *Neue Zürcher Zeitung*, December 9, 1938) opposing it.

[35] Sell, "Norwegen, Seestaat and Neutralität," *Marinerundschau* (1933), pp. 200, 201; Leguèbe, "L'Allemagne, la Baltique, et les pays Scandinaves," *Revue politique et parlamentaire* (April, 1938), p. 35; Leistikow, "Denmark's Precarious Neutrality," *Foreign Affairs* (1939), p. 611; *New York Times*, April 2, 1939, p. E 5. At the beginning of April, 1938, the Swedish Foreign Minister Sandler made a speech addressed to all Scandinavian countries (*Neue Zürcher Zeitung*, April 6, 1938), in which he pointed out that these countries must keep aloof from the conflicts of the European powers, and that the North must be crossed off the calculations of the General Staffs.

Holland lies athwart the shortest line between the German airports and England; to spare her would today no longer, as in 1914, mean a temporary lengthening of the route of the German army, but rather a permanent handicap to an important war-weapon.

This new situation the small European states are seeking to meet by the traditional means of rearmament and political isolation. They have thus far resisted the temptation to form, together with nations which cannot properly be called "traditional neutrals," an independent *bloc* with common political aims of its own. Such a *bloc*, among whose prospective members have been counted—besides the "traditional European neutrals"—the Baltic states, Poland, the Balkan states, Turkey, and even Italy,[36] should have as its chief aim to keep its members out of the next general European war. But despite the apparent identity of this aim and the main purpose of the "traditional European neutrals," such political combination would be likely to destroy rather than to strengthen the neutrality of the small states. Neutrality, as the traditional European neutrals understand it, is a political and moral maxim which requires impartiality and aloofness in all circumstances and at all times. The pseudo-neutrality, however, at which the promoters of a "Third Europe," extending from the Baltic to the Black Sea, aim, is a political expedient which might enable them to maintain their freedom of political action by keeping out of this particular war.[37] Hence, this pseudo-neutrality would be a negative attitude within the political game of the Great Powers, not a positive attitude outside of it, as true neutrality would require. By joining a political combination founded on so dubious a principle, the traditional European neutrals would sacrifice the time-tested maxim which not only has guided their foreign policies, but justifies their very existence as independent states, without receiving, at best, more than temporary protection. Therefore, they attempt to maintain their political isolation (strengthened by mutual technical understandings such as the Scandinavian Rules of Neutrality of May 27, 1938,[38] and the Convention of the Baltic States of November 18, 1938[39]), to improve their armaments, and to preserve the slight chance of additional protection which membership in the League of Nations offers them. They have succeeded in ridding themselves of the risky obligations which membership in the League has imposed upon them, without, however, relinquishing the advantages which perhaps might some day result from

[36] "Augur" in *New York Times*, August 6, 1938.

[37] *Ibid.*, July 6, 14, August 14, 15, 1938; *L'Europe nouvelle*, July 9, 1938, pp. 768 *et seq.*; *New Republic*, March 22, 1939, pp. 188, 189.

[38] For the text, see *Amer. Jour. of Internat. Law* (1938), Supplement, p. 141; for interpretation, see Padelford, *ibid.*, p. 789.

[39] *Neue Zürcher Zeitung*, November 24, 1938.

such membership. For this reason, they have so far refrained, against strong public opinion, from completing the cancellation of their obligations under Article 16 by resignation from the League.[40]

Nevertheless, the responsible statesmen of the small European nations will certainly least of all harbor the illusion that all these considerations have more than secondary value. The fate of the neutrality of their countries ultimately will not be decided by them, but by the Great Powers; and this decision will be made, not according to legal formulae and ideological principles, but according to the real or presumed interests of those Powers.

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[40] On the military and political side of the problem, see Seton-Watson, Britain and the Dictators (Cambridge, 1938), pp. 304 *et seq.;* Schuman, *International Politics* (New York, 1937), pp. 496, 497; Hambro, *New York Times*, October 23, 1938; van Hamel, *loc. cit.*, pp. 342, 343; Hyde, "Belgium and Neutrality," *Amer. Jour. of Internat. Law* (1937), p. 84; Kleen, *Lois et usages de la neutralité*, Vol. 1 (Paris, 1898), pp. 89 *et seq.;* Kunz, *Kriegsrecht und Neutralitätsrecht* (Vienna, 1935), pp. 212 *et seq.;* Duke of Northumberland, "The League of Nations and Denmark," *National Rev.*, Vol. 73, p. 44; Politis, *op. cit.*, p. 167; Schindler, "Die Londoner Erklärung und die schweizerischen Rüstungen," *La Société des Nations, Bulletin de l'Association Suisse pour la Société des Nations* (1930), pp. 64, 84; George Grafton Wilson, "Neutralization," *Encyclopaedia of the Social Sciences*, Vol. 11 (New York 1935), p. 366. Cf. the declarations of Danish, Dutch, Swedish, and Norwegian statesmen, *Neue Zürcher Zeitung*, November 1, 1938, January 1, March 21, 26, April 24, 1939; *New York Times*, February 7, p. 8, March 21, p. 7, April 16, 1939, p. E 5.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

The committee on program (Professor Harvey Walker, chairman) for the thirty-fifth annual meeting of the American Political Science Association, to be held at Washington, D. C., December 28–30, is arranging for section meetings as follows (with chairmen as indicated): (1) Political Theory, George H. Sabine, Cornell University; (2) Political Parties and Public Opinion, Robert C. Brooks, Swarthmore College; (3) International Relations, Frederick L. Schuman, Williams College; (4) Public Law, Marshall E. Dimock, Assistant Secretary of Labor, Washington, D. C.; (5) Public Administration, Edward B. Logan, University of Pennsylvania; (6) Governmental Research, John H. Pfiffner, University of Southern California (7) State and Local Government, Lane W. Lancaster, University of Nebraska; and (8) Teaching of Basic Courses, William Anderson, University of Minnesota. Round-table discussion groups, with chairmen, are as follows: (1) The Political Philosophy of the New Deal, John Dickinson, University of Pennsylvania; (2) The Alignments for the 1940 Election, Earl DeLong, Northwestern University; (3) The Foreign Policy of Mr. Cordell Hull, H. W. C. Laves, University of Chicago; (4) The Supreme Court, 1933–39, F. R. Aumann, Ohio State University; (5) Personnel Administration under the New Deal, Joseph P. Harris, Social Science Research Council; (6) Government Propaganda under the New Deal, Peter H. Odegard, Amherst College; (7) Centralization in the United States, 1933–39, W. Brooke Graves, Temple University; (8) Changing Concepts of International Law, Clyde Eagleton, New York University; (9) The Implications of Japanese Imperialism, Joseph R. Hayden, University of Michigan; and (10) Government and Business under the New Deal, Ford P. Hall, Indiana University.

In view of the rapid multiplication of local and regional political science organizations, a committee has been appointed by President Charles G. Haines of the American Political Science Association to study the problem of relations between such organizations and the national Association, and to report at the next annual meeting of the latter. The committee consists of Professors Roscoe C. Martin (chairman), University of Alabama; Clarence A. Berdahl, University of Illinois; William S. Carpenter, Princeton University; Francis W. Coker, Yale University; Edwin A. Cottrell, Stanford University; W. Brooke Graves, Temple University; James K. Pollock, University of Michigan; and Emmette S. Redford, University of Texas. The chairman will be glad to receive suggestions from any member of the Association.

As published in the April issue of the REVIEW, the list of members of the committee to nominate officers of the American Political Science Association for 1940 was slightly in error. The correct list is: Professors Edwin A. Cottrell, Stanford University (chairman); Harwood L. Childs, Princeton University; Joseph R. Hayden, University of Michigan; Arthur N. Holcombe, Harvard University; and Robert R. Wilson, Duke University.

During the autumn quarter at the University of Chicago, Professor Jules Lespès, of the University of Brussels, will conduct courses on comparative administrative law and comparative public administration.

Dr. Francis G. Wilson, for several years professor of political science at the University of Washington, has been appointed associate professor in the department of political science at the University of Illinois. Professor Wilson will take over the political theory work of the late Professor Garner, and will offer also certain new courses.

Professor Harold S. Quigley, of the University of Minnesota, is giving a lecture course and a seminar in the field of Far Eastern politics and diplomacy at the University of Washington during the first and second summer terms.

Professor Clarence A. Berdahl, of the University of Illinois, has been granted leave of absence for the second semester of 1939–40 and will carry on studies in Washington and abroad.

On April 19, 20, and 21, Dr. Charles A. Beard delivered the annual Cutler lectures at the University of Rochester, on "Interpreting the Constitution."

Mrs. Ruth Bryan Owen Rohde, formerly United States minister to Denmark, has been appointed to a teaching position in political science at Monticello College, Godfrey, Illinois.

Professor Herbert W. Briggs, of Cornell University, has been chosen to fill the vacancy on the board of editors of the *American Journal of International Law* caused by the death of Professor James W. Garner.

Governor Lehman of New York has appointed Dr. Howard P. Jones, secretary of the National Municipal League and editor of the *National Municipal Review*, a member of the New York Civil Service Commission.

Professor Walter R. Sharp will be on leave from the University of Wisconsin during the next academic year and will carry on investigations abroad in the field of international administration.

Professor Arthur N. Holcombe and Dr. Erich Voegelin, of Harvard University, are participating in an Institute of Democracy held at Northwestern University during the period June 19 to August 12.

Professor E. B. Smith, of Ohio State University, is teaching at Miami University during the first term of the summer session, while Professor O. J. Frederiksen of Miami is teaching at Ohio University and Dr. Philipp H. Lohman at the University of Idaho.

Professor Harvey C. Mansfield, of Yale University, has been appointed acting assistant professor at Stanford University for next year and will conduct the courses regularly given by Professor Edwin A. Cottrell. While on sabbatical leave, Professor Cottrell will have charge of a survey of the public and private social agencies of the city of Pasadena.

Professors Lennox A. Mills and Joseph R. Starr, of the University of Minnesota, have received grants-in-aid from the Social Science Research Council and from the University of Minnesota for studies during 1939–40. Professor Mills plans to complete his study of colonial administration in the Far East, and Professor Starr will carry on studies in the field of national party organization.

Professor Lloyd M. Short, of the University of Minnesota, has been appointed a member of the Committee on Social Security of the Social Science Research Council.

Professor James L. McCamy is on a year's leave of absence from Bennington College while serving as assistant to the Secretary of Agriculture in Washington.

During April, Professor Harold J. Laski, of the University of London, delivered a convocation address and conducted a political science round table at the University of Wisconsin, and later gave a series of lectures at Indiana University on the American presidency.

At the University of Missouri, Professor J. G. Heinberg has received a grant from the University Research Council for a study of the rôles of Missouri state officials and agencies in law enforcement.

Professor Philip W. Buck, of Stanford University, is giving courses in the summer session of the University of Oregon at Portland.

Dr. Victor D. Brannon recently resigned a research position with the Missouri state planning board to accept a position with the Governmental Research Institute of St. Louis.

Mr. Charles H. McLaughlin, instructor at the University of Minnesota, has been awarded a university fellowship at Columbia University for the year 1939–40.

Professor Robert R. Wilson, of Duke University, and Professor Graham H. Stuart, of Stanford University, are exchanging positions during the current summer sessions.

At the University of Missouri, Professor M. L. Faust has been given leave of absence for the year 1939–40. With the assistance of a grant from the Social Science Research Council, he will spend part of the year in London studying aspects of fiscal control by the Treasury.

Mr. Hale T. Shenefield has been appointed director of coördination and procedures for the United States Housing Authority, thus becoming head of a new division established as a result of a Public Administration Service study for the purpose of planning and surveying the work of the Housing Authority.

Professor David W. Knepper, of the Mississippi State College for Women, will serve as visiting professor of political science during the 1939 summer session at the George Peabody College for Teachers in Nashville, Tennessee.

Professor Howard White, of Miami University, is teaching at the University of Illinois during the current summer session and will be on leave from Miami during the coming academic year. Part of his work at Miami will be in charge of Dr. Louis E. Frechtling, who has recently completed his studies at Oxford as a Rhodes scholar.

Dr. Raymond L. Buell has resigned as president of the Foreign Policy Association in order to become round table editor of *Fortune*. In his new post, he will bring together representatives of business, agriculture, and labor in an effort to reach agreements on outstanding American problems, the results being published in the magazine. Two round tables have thus far been held—one on government spending and the other on taxation.

Dr. Orven R. Altman, assistant professor of political science at Williams College since 1935, died in Williamstown on May 16 at the age of thirty-three. Born in Litchfield, Illinois, Dr. Altman received his bachelor's degree from the University of Illinois in 1927, a master's degree from the same institution in 1928, and a doctor's degree from Harvard University in 1936. Readers of the REVIEW will recall the articles on sessions of Congress which he contributed to the journal in recent years.

Mr. Lewis B. Sims, of the Census Bureau's Division of States and Cities, is on loan to the President's Committee on Civil Service Improvement, making a basic study of junior professional appointments in the federal government and the scholastic standing in the universities of those who have received such appointments within the past four years.

Professor Peter H. Odegard, of Amherst College, lectured at a special conference on "Labor Today" at the University of Minnesota, April 17–20. His topic was "The Political Future of Labor." Other participants in the Conference included Elmo C. Roper, of the magazine *Fortune's*

survey of public opinion, Roger N. Baldwin, National Association of Manufacturers, and William Leiserson, chairman of the National Mediation Board.

Dr. J. E. Wallace Sterling, assistant professor of history at the California Institute of Technology, has been awarded one of the Social Science Research Council fellowships for the year 1939–40. He proposes to spend most of the year in London, where he will be engaged in research on the general subject of the relations between Great Britain and her island possessions in the South Pacific. Thereafter he will spend some months in the Antipodes, probably making his headquarters at Suva in the Fiji Islands.

Dr. Robert T. Pollard, chairman of the department of Oriental studies at the University of Washington, died at Seattle on April 11. Born in Chambersburg, Pennsylvania, in 1897, he was with a medical corps in the War, received his master's degree from Ohio State University in 1923 and his doctorate from the University of Minnesota in 1931, and before joining the faculty of the University of Washington in 1931 taught in St. John's University, Shanghai. His book, *China's Foreign Relations, 1917–1931*, won the G. L. Beer prize in 1933, and at the time of his death he was engaged upon an extensive study of recent Japanese foreign policy.

An important part of the training program of the Institute of Local and State Government at the University of Pennsylvania is a system of apprenticeships by which students are enabled to participate in the actual operations of local government offices. The stipend from the Fels scholarships will take the form of remuneration for time spent on apprentice work, a minimum of $25 a month, and in addition, one-half of the annual graduate tuition fee of $250 will be remitted.

On January 3, President Roosevelt appointed Professor Marshall E. Dimock, of the University of Chicago, Second Assistant Secretary of Labor, to fill a position left vacant when Dr. Arthur Altmeyer became chairman of the Social Security Board. In his new position, while on leave from his university post, Professor Dimock is responsible for organization and coördination problems within the department and in relation to other departments and agencies. His general oversight extends particularly to the United States Employment Service, the Immigration and Naturalization Service, and the Wage and Hour Administration and other agencies coming within the Fair Labor Standards Act.

During the month of March, Mr. Walter Lippmann, of the New York *Herald-Tribune*, gave a series of lectures at the California Institute of Technology on "The Image of Man; Some Philosophical Aspects of the Modern Disorder." The lectures, it is expected, will later be published

in book form. Professor Ernest Barker, of Cambridge University, England, has accepted an invitation to be visiting professor of political science at the Institute during the second term of the next academic year.

During late March and early April, two series of public lectures were given at the University of Illinois under the auspices of the department of political science—one by Professor Thomas Reed Powell, of the Harvard Law School, and the other by Professor Harold J. Laski, of the University of London. Professor Powell's first lecture, entitled "The Constitution in Transition," was the annual Edmund J. James lecture on government. Other lectures in the series by Professor Powell, cosponsored by the College of Law, were entitled "Some Ways of Looking at the Law" and "Some Contemporary Constitutional Issues." Professor Laski lectured on "What is Democracy?," "The Present Position of Democracy," and "The Future of Democracy."

The spring meeting of the Academy of Political Science, held at the Hotel Astor, New York City, on May 3, was devoted to the general subject of "The Preservation of Democracy—America's Preparedness." The proceedings will, as usual, be published by the Academy.

The eleventh annual Institute of Government, under the auspices of the School of Government at the University of Southern California, was held at Los Angeles June 12–16. Sections for purposes of lectures and round tables were organized on an extremely wide variety of topics.

Under the direction of the School of Citizenship and Public Affairs, Cortez A. M. Ewing, director, the University of Oklahoma held its second annual Institute of International Relations at Norman, June 12–23. The general subject was "The Foreign Policies of the Great Powers," and persons who appeared on the program included Dr. Eduard Beneš; J. Linus Glanville, Southern Methodist University; T. Z. Koo, chairman of the World Student Christian Federation; R. H. Markham, *Christian Science Monitor* correspondent in central Europe; B. W. Maxwell, Washburn College; H. C. Nixon, chairman of the Southern Policy Committee; Clarence Pickett, American Friends Service Committee; Walter R. Sharp, University of Wisconsin; Wilhelm Sollmann, former minister of the interior in Germany; and R. J. Dangerfield and Oliver E. Benson, University of Oklahoma.

An organization meeting of a Metropolitan Political Science Association of Greater New York was held at the Columbia Faculty Club on April 14. Some fifty or sixty individuals were present, representing Brooklyn College, Hunter College, College of the City of New York, Queens College, Newark University, New Jersey College for Women,

Rutgers University, Barnard College, Sarah Lawrence College, Columbia University, and Princeton University.

A National Conference on Interstate Trade Barriers, sponsored by the Council of State Governments, was held on April 5–7 in Chicago. Four hundred official delegates and guests represented more than forty states. The work of the conference was divided into four sections (for which committees had been set up in advance) on taxation, agriculture, commerce and industry, and liquor control. All of the official delegates were state or federal legislators or administrative officials, and a number of other outstanding people took part in the conference as guests.

The first Citizens' Conference on Government Management was held at Estes Park, Colorado, during the week of June 19, under the joint sponsorship of the Alfred P. Sloan Foundation and the University of Denver. The central theme was the quickening of citizen interest in the processes of government. The program was designed to provide a forum in government management (with particular emphasis on local government), which was not limited to the interests of those professionally engaged in the public service, but emphasized the share of the lay citizen in the burdens and benefits of governmental activities.

As an outgrowth of a number of earlier gatherings held in Harrisburg and in conjunction with meetings of the American Political Science Association during the past several years, a Pennsylvania Political Science Association was formed at a meeting at the Penn-Harris Hotel in Harrisburg on April 22. A constitution, modeled on that of the national association, was adopted, and the following officers were elected: president, W. Brooke Graves, Temple University; vice-president, Jacob Tanger, Pennsylvania State College; secretary-treasurer, Frances Reinhold, Swarthmore College; executive council, for one year, E. P. Chase, Lafayette College, and Joseph F. English, Scranton; for two years, Elmer D. Graper, University of Pittsburgh, and Roger H. Wells, Bryn Mawr College; for three years, Ralph E. Page, Bucknell University, and Charles C. Rohlfing, University of Pennsylvania. The Association plans to hold an annual meeting. While problems affecting the state and local governments will be emphasized, it is hoped to develop groups interested in other aspects of the political science field. Among the purposes of the association will be to encourage investigation and research, to further the interests of the professional group within the state, and to provide opportunities for better personal acquaintance among the members of the group.

A conference of political scientists from the Midwest was held at Turkey Run State Park, Indiana, May 5–6, with an attendance of 110

from eight states. Sessions were devoted to "Problems of Teaching Political Science," "United States Foreign Policy Today," "The Significance of the Republican Revival in the Midwest," and "Public Administration and the Colleges." Among those who participated in the program were Professors Leonard D. White, John A. Fairlie, Kenneth Colegrove, Frank G. Bates, Clarence A. Berdahl, S. Gale Lowrie, James K. Pollock, Harold F. Gosnell, Arthur W. Bromage, Howard White, E. Allen Helms, Harvey Walker, Earl DeLong, Hiram M. Stout, Ivan Stone, John W. Manning, Albert Lepawsky, W. H. C. Laves, H. M. Dorr, Francis O. Wilcox, Charles W. Shull, and Harold Zink. It was decided to set up a loosely organized Midwest Political Science Association and to schedule meetings annually. A managerial committee, consisting of Walter H. C. Laves, chairman, Harold M. Dorr, Kirk L. Porter, K. P. Vinsel, and Harold Zink, was elected to arrange the next conference. The exact area to be included in the new association was left to be worked out in the future.

An event of much significance for historical and social science was the announcement by President Roosevelt on December 10, 1938, that he proposed to give to the nation, to be preserved intact under the control of the National Archives, all of his papers, correspondence, pamphlets, books, and special collections. The material will cover his service of nearly three years in the New York state senate; seven and one-half years as Assistant Secretary of the Navy, including the World War period; his business and legal correspondence; much political material between 1920 and 1928, including his campaign for the vice-presidency, the 1924 convention, and the 1928 convention; his campaigns for governor in 1928 and 1930; all of his personal letters as governor of New York, 1929–33; the campaigns for the presidency in 1932 and 1936; and all of his presidential papers from March 4, 1933, to date. In addition, he will include a specialized collection relating to the United States Navy which is said to be the most comprehensive in private hands; another special collection of historical material relating to New York State, particularly Duchess county; and some thousands of books. The past disposition of the papers of the presidents is a story which reads as tragi-comedy to the layman and as a record of heart-breaking carelessness to the serious student of American history. The story has been summarized with rare good humor in the *New York Times Magazine* of March 19, 1939, by Samuel Eliot Morison. Presidential papers, Professor Morison says, "have for the most part gone with the winds of housecleaning and neglect." Large sums have been expended from the public treasury for the belated acquisition of fragments that remained. The Roosevelt collection is to be maintained in a separate building to be erected on the family estate at Hyde Park, all of which is ultimately to become public property.

At the insistence of the President's advisers, the building and its contents are to be known as the Franklin D. Roosevelt Library. Building plans have been sketched and accepted, and a building fund is now being raised, to which Mr. Roosevelt is himself contributing the income from his writings. Suitable provisions have been made in the building plans for architectural conformity to the surroundings, for the most effective care of the collection, and for the convenience of scholars who wish to consult it. The enterprise was launched at a dinner meeting in Washington on February 4, which was attended by the President; the trustees of the Franklin D. Roosevelt Library; members of the Advisory Committee comprising scholars, librarians, and others; members of the fund-raising Ways and Means Committee; and members of an Executive Committee of seven composed of the following: Waldo G. Leland (chairman), director, American Council of Learned Societies; Randolph G. Adams, director, William L. Clements Library of American History, University of Michigan; Charles E. Clark, dean of the Yale University School of Law; Robert D. W. Connor, archivist of the United States; Helen Taft Manning, dean of Bryn Mawr College; Samuel E. Morison, professor of American history at Harvard University; and Stuart A. Rice, chairman of the Central Statistical Board.

Elihu Root. By Philip C. Jessup. (New York: Dodd, Mead and Company. 1938. Two volumes. Pp. xi, 563, and vii, 586. $7.50.)

This massive two-volume biography of Elihu Root defies appraisal in terms normally applied in book reviews. It is bulky, but never padded. It is dignified, but never pompous. It is stately, but not ponderous. It moves slowly, yet it conveys the sweep of swiftly-moving history. It is history, yet it never loses contact with the man whose life provided its central theme. It takes its tone in large part from the life of the man with whom it deals. The attitude of the author toward his subject is one of calm remoteness, veering in the direction of poised intimacy. The result is a biography of the highest rating, with broad significance in the field of American political history.

Like many other leaders of his time in the several professions, Elihu Root came out of the cultured, scholarly, and impecunious background often characteristic of the homes of teachers and ministers. In his case, the home was that of a teacher, "Cube" Root, professor of geology at Hamilton College. Root began the practice of law in New York shortly after the Civil War. He was brilliant, hard-working, and thorough. In two decades, he made himself one of the foremost lawyers in the country, a leader in the Republican party, and a persuasive advocate of sound reforms in government. The author emphasizes, but does not criticize or praise, Root's superb ability to maintain a separation between his own moral conceptions and the morality of the conduct of his clients. His professional defense of "Boss" Tweed and other malefactors apparently neither caused him qualms of conscience nor impeded his advocacy of better government. This convenient dichotomy in his thinking left him free to build a professional reputation and a fortune, and at the same time to become a leader in his party and in state and national affairs.

At the call of President McKinley, Root went to Washington in 1899 to be secretary of war. He aided in renovating a department in which defects had been disclosed during the Spanish-American War, and supervised the task of establishing government in recent territorial acquisitions. He remained in office until 1904, becoming the confidential adviser of his old friend, Theodore Roosevelt. He left the War Department to resume private practice, but returned to the Roosevelt cabinet in 1905 to succeed John Hay as secretary of state. Early in 1909, the New York legislature elected him to the United States Senate, where he served a full senatorial term. In 1915 he presided over the New York state constitutional convention. During and immediately after the World War, though in retirement, he was influential in the counsels of public men.

Root's social philosophy was one of intelligent conservatism. He

favored governmental reforms, in order to maintain the essence of the status quo. He supported some of the Roosevelt anti-trust policies, but he urged the use of methods not destructive of business confidence. He believed that the management of business should be left in the hands of the friends of business enterprise. Perhaps in order to avert more severe attacks upon business, he favored a corporation excise tax based upon income. He also favored a constitutional amendment to authorize an individual income tax, but he thought such a tax should be levied only in an emergency.

Although he saw eye to eye with Roosevelt in many public matters, he deplored the public criticism of the courts resorted to by Roosevelt and others. He thought judicial review the most valuable American contribution in the field of government. He would brook no attack upon the prestige of the Supreme Court. Yet when offered an appointment to the Court he turned it down. He apparently disapproved of many things in the Taft administration, yet he steered the Republican national convention of 1912 to the renomination of Taft, in spite of his own friendship with Roosevelt. As for himself, his personal reserve, his air of aristocracy, and his reputation as the defender of big business and of men of great wealth stood in the way of his selection as president of the United States. He goes down in history as a leading American statesman. Yet his memory is faintly shadowed by the cloud of vague distrust which people feel at too vigorous and too successful embodiment of the ideas for which he stood.

CARL BRENT SWISHER.

The Johns Hopkins University.

The Senate of the United States; Its History and Practice. By GEORGE H. HAYNES. (Boston: Houghton Mifflin Company. 1938. Two volumes. Pp. x, 1118. $8.50.)

These volumes are absolutely indispensable to every serious student of the American national government, for they constitute the only comprehensive treatise on the Senate of the United States. "In this book it has been my purpose," says the author, "to deal with Senate history and practice in such wise that the reader—from whatever angle of interest he approaches the Senate—may find here the 'leads' to authoritative information upon that particular phase of the subject, set forth in the degree of fullness that can be accorded to it in a balanced study of the Senate" (p. viii). This is an ambitious aim; and Professor Haynes has carried it out with completeness and scholarship.

The bare enumeration, in the footnote below,[1] of his twenty chapter

[1] I. Planning the Senate in the Federal Convention; II. Setting Senate Precedents in the First Congress; III. Election of Senators by State Legislatures; IV.

headings testifies to the comprehensiveness of his work, and indicates how utterly impossible it is to do justice to it in less than an essay. The features of special interest are so numerous that the reviewer omits them all in preference to arbitrary selection. Professor Haynes not only makes abundant use of, and references to, primary sources, but also digests the work of many other scholars as well as prior writings of his own. He introduces each chapter with suggestive quotations, subdivides it topically, and appends to it a list of references. He presents useful tables, supplies many valuable footnotes, and includes several illustrations and a sixteen-page index.

Specific slips have been noted as follows: p. 474, note 1 (title); p. 490, note 1 (title); p. 715 (date); p. 437, note 1 (name); p. 665 ('open agreements, openly arrived at'); p. 874, note 4 (name).

Several statements seem questionable to the reviewer: the implication on p. 139, note 4, of inconsistency between Mr. Justice Holmes' positions in the Newberry Case and Nixon v. Herndon; the statement on p. 827 of what was held in United States v. George Otis Smith (ambiguous); the association of the decline of deference of senators to "instructions," on p. 1029, with the doctrine of Hoke v. Henderson, especially in view of p. 1030, note 1; the loose statement concerning the Humphrey Case on p. 833 (top), though the context shows that this was not the precise point decided in that case; and the implied attribution on p. 810 of inconsistency to Woodrow Wilson. Also surprising is the apparent failure to cite Mr. Wilson's justification of representation in the Senate (pp. 1038–1040).

The author quite properly does not suppress his own opinions. Sometimes, as on p. 1078, note 1, he gives them explicitly. Often they are given inferentially, and hence the assumptions on which they are based are not made articulate. The reviewer takes the liberty of questioning some of those assumptions. As an antidote to the assumptions of pp. 848–853, see Bowers' *Jefferson in Power*, which has its own shortcomings (see Bowers' amazing statement at the top of p. 169). For further evidence of what the reviewer regards as Professor Haynes' mid-Victorian attitude toward the sacred cow of contemporary, no less than of Federalist, reactionaries,

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Senate Control over Elections and Members; V. Senate Officers and Organization; VI. Senate Committees; VII. Senate Rules and Procedures; VIII. Debate in the Senate; IX. Senate Influence in Financial Legislation; X. Leadership and Lobbying; XI. Senate Investigations; XII. The Senate's Part in Treaty-Making and Foreign Relations; XIII. Senate 'Advice and Consent' to Appointments; XIV. The Senate's Relation to Removals; XV. The High Court of Impeachment; XVI. Senators' Privileges, Pay, and Perquisites; XVII. Historic Senate Chambers: Some Changing Customs; XVIII. The President and the Senate: Accord and Discord: XIX. The Senate and the House of Representatives: Contacts and Contrasts; XX. The Changing Senate.

see p. 760; p. 852, note 1; pp. 1097–1100. Again, the reviewer strongly questions the assumptions of p. ix and p. 994.

What does such criticism come to? It indicates that the work is not perfect, and hints that it may not be—as certainly it does not pretend to be—the last word on the broader issues of American politics. It must not be allowed to obscure the fact that Professor Haynes' book is a monumental achievement of sustained and painstaking scholarship. In the whole history of American political science, it has few rivals among institutional studies of its kind. For anything comparable, one has to turn to a few treatises like Warren's *The Supreme Court in United States History* and Sharfman's *The Interstate Commerce Commission.*

JAMES HART.

University of Virginia.

Reorganization of the National Government—What Does it Involve? BY LEWIS MERIAM AND LAURENCE F. SCHMECKEBIER. (Washington, D.C.: The Brookings Institution. 1939. Pp. 272. $2.00.)

The timeliness of the subject and the qualifications of the writers to deal with it make this book of more than ordinary interest. Part I, written by Mr. Meriam, is devoted to an analysis of the problem. Four different meanings of the term "reorganization"—structural change, the curtailment of functions and activities, increased executive control, and a continuous attack upon the day-to-day problems of management without major alterations in structure or division of powers between the President and Congress—are noted by way of introduction. Preceding a more detailed discussion of each of these concepts of reorganization, the author contributes a factual background, including (1) a financial statement showing funds available for expenditure for the fiscal year ended June 30, 1938, which reveals that only 17.65 per cent of such funds were expendable for the operation of administrative agencies and therefore subject to reduction through structural reorganization or reduction in personnel; (2) an explanation of discrepancies in the reported number of separate agencies in the national administrative hierarchy; and (3) an extremely effective presentation of the number and percentage of employees in the several departments and independent agencies, in which it is pointed out that eighty-eight per cent of the administrative costs of the national government go for personal services and that a similar percentage of all national employees are found in the ten largest of the sixty agencies included in the monthly reports of the Civil Service Commission.

Mr. Meriam discounts the importance of structural change in national administration, not only in effecting economies but in eliminating overlapping, duplication, and conflict. He distinguishes between so-called

"principles" of organization, of general if not universal applicability, and "factors" of organization the importance of which vary under differing circumstances and conditions, leaving no doubt as to his preference for the latter. He concludes that the problem of structural change must be solved by a study of individual situations, and not by any attempt to make one single factor dominant throughout the whole administrative structure. In his consideration of the problem of curtailing functions and activities, and of proposals to extend executive control, though he undertakes to present both sides of the question, he clearly aligns himself with those who are opposed to the delegation of unrestricted power to the President to curtail by executive order functions and activities now regulated by law. He believes the major problem to be how to equip the President and the Congress so that each may more effectively perform their respective duties with regard to administration; and his answer to this problem is an expansion of the Bureau of the Budget so that it may serve as a permanent coördinating and investigatory agency under the President to assist him in the exercise of his duties as general manager, and an expansion of the General Accounting Office so that it can make independent reports to the Congress on the economy and efficiency of the executive branch.

In Part II, Mr. Schmeckebier traces briefly the general development of national administrative organization and reorganization prior to 1932, and then examines in more detail the attempted reorganization by President Hoover in 1932, the reorganization effected by President Roosevelt under the act of 1933, and the movement for reorganization in 1938. In an appendix, he also contributes a penetrating analysis of the reported "chaos of establishments."

The emphasis in this treatment of the subject of reorganization obviously is upon economy and control rather than upon efficiency. In consequence, proposals for reorganization whose primary aim is to contribute to efficient management either are minimized because they do not give promise of substantial reductions in expenditures or are opposed as disturbing the balance of power between the President and the Congress. The major contribution of the book is in its clear presentation of the problem and in its evaluation of proposed methods and norms with respect to structural alterations in the administrative mechanism.

LLOYD M. SHORT.

University of Minnesota.

Public Personnel Problems, from the Standpoint of the Operating Officer. By LEWIS MERIAM. (Washington: The Brookings Institution. 1938. Pp. 440.)

In most of the textbooks and by most teachers of public administration,

personnel is treated as a staff or housekeeping activity of government. Mr. Meriam places his emphasis on the personnel functions of the line or operating officer. Taken alone, therefore, his book does not present a complete picture. However, it offers a needed corrective for a long-continued over-emphasis on personnel as a control function. It should be required reading for all teachers of public administration who desire to arrive at a well-balanced presentation of the personnel problem. Furthermore, those interested in the case method will find in the numerous footnotes concrete examples of situations in the personnel field, drawn from Mr. Meriam's wide experience with agencies of the national government.

The conclusions reached by the author cover nearly every phase of personnel work. While many of them are at variance with the opinions of other experts, each is supported by a careful marshalling of arguments pro and con. The range and temper of these statements is illustrated by the quotations which follow: "The central personnel agency cannot prescribe a uniform [service rating] system that will meet all needs" (p. 56). "Recruiting from outside the service for upper positions is not a simple matter and should come only as a last resort" (p. 87). "The probationary period is properly a part of the examination, and should be so regarded and administered" (p. 89). "Some skills such as those required in human relationships cannot be accurately determined by written tests or in any ordinary laboratory" (p. 95). "Considering testing as a whole, one may say that the technique has already advanced far enough so that any government can do an eminently respectable job in practically every field if it is willing to pay the price" (p. 107). "No natural or economic law actually fixes or determines salaries or wages in a public service" (p. 108). "The general public rarely gets excited if the legislative body fails to advance government salaries to meet increases in the cost of living, but it does protest if in a period of depression government salaries are not cut" (p. 129). "Among public employees a strong sentiment is developing in favor of insurance to meet the costs of medical care" (p. 167). "The case is strong for the maintenance of a medical and nursing staff in connection with government agencies, and it would seem that this service should be used for preventive activities designed to reduce the amount of sick leave taken" (p. 171). "A retirement system [is] a necessary feature of the personnel administration of any continuing organization" (p. 191). "No retirement system should be so designed that it will force out that rarest of all men, the real leader in his field" (p. 202). "Absence of integrity on the part of the head of a unit is perhaps the most unpardonable sin against morale" (p. 225). "In the national government, the truth is that it is easier to fire a classified civil service employee than it is to fire the employee who holds office by virtue of live, current

political connections" (p. 231). "An act making the findings of the Civil Service Commission or a civil service court of appeals [in disciplinary cases] mandatory on the President would probably be unconstitutional" (pp. 259, 273). "If the right to strike is morally and legally denied to public employees, it follows as a matter of justice and equity that adequate mechanisms must be provided for the presentation and the redress of grievances arising in the public service" (pp. 274–5). "Both the exercise of administrative discretion and the participation in the formulation of programs and policies may, under our American system, draw the permanent civil service employees into the field of social and economic controversy" (p. 300). "The real need is to separate political duties from non-political duties, and to separate the legal authority and responsibility for the performance of these duties" (p. 310). "Observation suggests that administrative ability and interest are something rather separate and distinct from fields of learning, and that good administrators and poor administrators can be found in almost any field" (p. 320). "Residence rules tend to create blind alleys" (p. 329). "Until the educational institutions have demonstrated that their methods of recruiting and training students produce a fairly consistently superior product, it is scarcely the part of wisdom for a democratic government to make higher education a prerequisite for classes of positions that do not require the knowledge and the skills that are attained almost exclusively through such institutions" (p. 337). "Power commensurate with responsibility has a counterpart: responsibility commensurate with capacity" (p. 341). "The most difficult task for the specialist who occupies a position affecting administration is to maintain an efficient working gap" (p. 387).

Typical of Mr. Meriam's approach are the words with which he closes his volume: "Consistency in general purpose is probably a virtue, but one cannot throughout life be consistent in details of administration unless one is to refuse to learn through experience. The public administrator must be a realist" (p. 387).

Three useful appendices are included. The first reprints the executive order of June 24, 1938, amending the civil service rules. The second reprints the other order of the same date extending the competitive classified civil service; while the third reproduces the plan for a personnel classification survey used in the territory of Hawaii in 1925, including the questionnaire form and instructions.

HARVEY WALKER.

Ohio State University.

The Comptroller-General. By HARVEY C. MANSFIELD. (New Haven: Yale University Press. 1939. Pp. viii, 303. $3.00.)

A book on the office of the Comptroller-General and the workings of the General Accounting Office has been greatly needed for several years.

Until the President's Committee on Administrative Management made a survey of the federal administrative agencies during 1936, this subject had not been written upon at any length for almost a decade. W. F. Willoughby and D. H. Smith, both of the Brookings Institution, published separate studies of the General Accounting Office in 1927, both dealing with the background, legal status, and functions of the office, and both inclined to be complimentary rather than critical. Mansfield's volume, appearing some eighteen years after the creation of the Comptroller-General's office, is therefore most welcome.

Although the author had for several years studied the legal basis of the General Accounting Office, it was not until 1936, when he became a member of the research staff of the President's Committee on Administrative Management, that he had opportunity to examine the actual operations of the office and to explore its control over the financial administration of the government. The immediate results of his examination were presented to the President's Committee in a study called "The General Accounting Office," which was published in 1937 as one of the supporting studies to the Committee's report to the President. The present volume is an outgrowth, in some respects merely an elaboration, of this study. The major findings in both are essentially the same.

Mr. Mansfield opens his volume with an introduction in which he characterizes in lively journalistic style the fifteen-year term of J. R. McCarl, the first Comptroller-General of the United States. The main results of this term, he says (p. 3), have been "to load the processes of administration with an intolerable burden of overhead cost, to tie the hands of administrative officers in bundles of meaningless red tape, to interfere with nearly every housekeeping aspect of administration, to divert the time and energy of responsible officials continually from substance to form, and to make it as difficult as possible for a government agency to get a good job done at a reasonable cost—so much so that with few exceptions the outstanding examples of effective administration in recent years have been provided by agencies that have been exempted in whole or in part from his supervision." In the first chapter, the author outlines the general bases of financial control and accountability under our form of government and concludes that control and audit, now merged in the General Accounting Office, should be performed as separate and independent functions, control being of an executive character and audit (post-audit) belonging to the province of Congress. The historical development of the accounting functions of the national government is sketched in Chapter II. The legal status of the Comptroller-General and the finality of his decisions are ably and concisely presented in Chapters III and IV. The remaining chapters, save the last, deal with the position of disbursing officers, internal organization of the General Accounting

Office, settlement of accounts, prescription of accounting forms and procedures, control of advances, and reporting to Congress.

In the course of this discussion, the unhappy position of the Post Office Department is disclosed. Here is the government's largest service department, doing a cash business that approximates a billion dollars annually, and yet without an accounting system of its own, having to depend upon a division of the General Accounting Office to produce the final figures which serve to guide its operations. The Comptroller-General's handling of the accounts of the Tennessee Valley Authority is discussed at some length, unfortunately not with the same judicial calm that characterizes most of the text. "The Comptroller-General's relations with the TVA over the five-year period since 1933," writes Mansfield (p. 244), "have imposed on the government a direct cost of upwards of $200,000. For this there is precisely nothing to show except damage to morale, interference with the conduct of important operations, and a flood of unjustified public suspicion of the work of honest officials which reaches far beyond the TVA and tends to undermine popular confidence in the capacity of government enterprise generally."

In his final chapter, Mansfield summarizes the defects in the set-up of the General Accounting Office, and reviews the recent proposals for reorganizing the office. He also makes some suggestions as to how a new Comptroller-General might make the office more effective from the standpoint of Congress and less trying for the Administration without the necessity of further legislation. We may add that since the publication of Mansfield's book an administrative reorganization bill has been enacted which did not touch the General Accounting Office, and that President Roosevelt has appointed former Senator Fred H. Brown of New Hampshire as Comptroller-General. What policy the General Accounting Office will follow under its new head remains to be seen.

On the whole, this volume is quite readable, in spite of the fact that the author is inclined to be legalistic in this approach. It deserves to be read by all who are in any way interested in the improvement of the government's fiscal administration and accounting system.

A. E. Buck.

Institute of Public Administration.

The Management of Municipal Public Works. By Donald C. Stone. (Chicago: Public Administration Service. 1939. Pp. xv, 344. $3.75.)

This monograph—one of a series to be published by the Public Administration Service—traces the essentials of management in terms of principles, procedures, and techniques which have emerged out of the operation of municipal public works after years of field experience. The author might well have styled his study "Management Procedure and

Technique," since what is included is as applicable to public administrative agencies as a whole as to the municipal public works department. All administrative departmental heads should read and memorize the essential content of the chapters on management essentials, personnel administration, standards and measurements, planning and budgeting, general accounting, cost accounting, purchasing and supply management, equipment management and accounting, property management, public relations, and social relations. These eleven chapters demonstrate the close interrelationship between the functions of administrative organization and procedure wherever found, and may be applied to any department in any government. Public works executives will find valuable additional suggestions on their problems in the chapters on engineering administration, public works maintenance and construction, and refuse and sewage disposal. The public works administrator of the smaller progressive municipality would welcome more detail and attention to the management of the other public utilities of water supply, lighting, transportation, and airport.

The author presents some valuable appendices from his former manuals on standard units for measuring operations, a chart of cost accounting, and a statement of the use of office and accounting machines. A sample ordinance for the disposal of refuse is included and presents a concise and adequate proposal for general adoption by any municipality.

The volume contains seventy forms and twelve figures or charts from experimental field installations upon which all administrators might develop adequate yardsticks for actual accomplishments of their activities. Perhaps there always has been a natural striving for good and acceptable administration in which the measurement of real accomplishment, adequacy, and completeness, or effectiveness of a given service, and the social benefits derived therefrom, might approximate the total expenditure of the taxpayers' money. The author has shown conclusively that a complete appraisal, or operation analysis, of public works administration is possible. This reviewer believes that the principles and practices advised here apply equally well to any governmental function and may be easily adapted by any administrator.

The author, publishers, all public administrators, and teachers of public administration and engineering should be pleased that over ten years of actual field experience has been instrumental in bringing forth so valuable a monograph. The volume should be on the desk of every governmental administrator and staff executive.

EDWIN A. COTTRELL.

Stanford University.

Research: A National Resource. Report of the Science Committee to the National Resources Committee. (Washington: Government Printing Office. 1938. Pp. 255. $0.50.)

In 1937, the federal government spent approximately one dollar on research for each person in the United States. This $120,000,000, however, represented only about two per cent of the total national budget, in contrast to some industrial corporations which spend about four per cent of their budgets on research, and to twenty leading universities which spend as high as twenty-five per cent of their annual budgets for this purpose. These facts were among the findings of the National Resources Committee's report, *Research: A National Resource.* In his letter approving the survey, the President pointed out that research is "one of the nation's very greatest resources."

The report deals almost wholly with research in the federal government, although one section treats of studies in the universities and colleges, and some attention is paid to research undertaken by industry and private organizations. There is a section prepared by W. F. Willoughby on investigations made by legislatures which contains a brief account of the research facilities of state governments as well as a more detailed account of the research carried on for the national Congress.

About 125 federal bureaus and agencies conduct some type of research, several being organized primarily for this purpose. Three-fourths of the research supported by regular appropriations is in the natural sciences, and only one-fourth in social sciences and the collection of statistics. Agricultural investigations represent about one-third of the total, and research in military and naval affairs comes second. The larger part of the emergency expenditures for research, totaling about $50,000,000 annually, is, however, devoted to studies in the social sciences and the collection of statistics.

The report does not describe in detail the many types of research activities carried on by the government, emphasizing instead the conditions and problems of research. The present civil service procedures are criticized as inimical in a number of particulars to the recruitment of the most able personnel. The report suggests a positive policy of seeking out candidates, and recommends other provisions for better personnel administration, including internship programs.

It is recommended also that better means be developed for coördination of research, both public and private, and that the government coöperate closely with national councils devoted to research and utilize them in the stimulation and coördination of research activities. Other recommendations include the encouragement of decentralized research, and the organization of research so as to free it from bias and subordination to policy-making and policy-enforcing functions. The report points out

forcefully that research, to be of value, must be absolutely impartial in its discovery and statement of facts.

The subcommittee which supervised the preparation of the report consisted of William F. Ogburn, Edwin B. Wilson, and Charles H. Judd, chairman. Stuart A. Rice, chairman of the Central Statistical Board, was director of the study. Dr. Baldwin M. Woods, of the University of California, also served as a member of the staff for several months, working on the researches in the natural sciences and technology in which agencies of the federal government are engaged. A number of other outstanding scholars worked with the subcommittee in the collection of materials and preparation of data. Supporting studies on the following subjects were published as part of the report: researches in the natural sciences and in technology; researches in the social sciences; federal expenditures for research; and the research activities of the Bureau of the Census, the Library of Congress, and the Office of Education.

The report is an able and significant document. It marks out many important lines for the development and improvement of research in the national government so that it may become an even greater "natural resource." The discussion of the conditions surrounding research in the natural sciences by Baldwin M. Woods and Charles M. Wiltse is of special significance, for the observations made there are, in the main, applicable to research in all fields. Unfortunately, there is relatively little about research in public administration and governmental problems of interest to political scientists, except in the section on legislative research by W. F. Willoughby. The study should be paralleled by similar surveys of research in state and local government, in the universities, and in private industry and institutions; and the Committee recommended that such surveys be made.

JOSEPH P. HARRIS.

Committee on Public Administration,
Social Science Research Council.

The Government of the French Republic. BY WALTER RICE SHARP. (New York: D. Van Nostrand Company, Inc. 1938. Pp. 373. $1.75.)

Unlike most accounts of the working of the French government published so far in the English language, Professor Sharp's book discards the traditional "structural" approach and attempts to depict the "functional" cycle of political action—"from policy formation through administration to control." By so doing, this study avoids the aridity and remoteness from reality of a great many textbooks in comparative government which is surpassed only by the legalistic dryness of French *manuels* of constitutional law. Professor Sharp is highly successful in this difficult endeavor, as would be expected of a keen student of French politics who

has managed to look through France's formidable governmental and administrative structure into the interplay of historical, psychological, and economic forces which lend it life.

Many may feel that France, in the past few years, has receded to the position of a second-rate power. Yet she remains a fundamental factor in today's dramatic conflict between democracy and totalitarianism. She cannot remain aloof in this struggle, because of her exposed geographical position as the last democratic bulwark of continental Europe. A comprehensive study of France's peculiar brand of parliamentary democracy is therefore very timely and should be of interest to all who hope that a minimum of human dignity and freedom may be preserved in this world.

Pessimism regarding the fate of French democracy can be dispelled only by a fundamental understanding of the French nation and of its political institutions such as one gathers from reading Professor Sharp's volume. Marxists declare that the same forces which destroyed parliamentary democracy in Italy, Germany, and Spain are now at work in France, where they threaten the slowly conquered "rights of man." Pseudo-historians allege that the First and Second Republics collapsed in the throes of "fascistic" Bonapartist reactions, and that the sixty-eight years of existence of the Third Republic are now culminating in political chaos, economic distress, and foreign threats that will cause the destruction of "that spiritual and civic freedom for which both Americans and French fought a century and a half ago" (p. 354).

Professor Sharp, who has not written a book of political controversy, does not discuss these gloomy forecasts, but the light that he throws on the functioning of French democracy gives hope that they are unfounded. For he shows with particular force that the strength of French democracy lies in the will of the people to maintain civil liberties. Public opinion—that is the foundation of French democracy, rather than a sacrosanct constitution as in the United States, or age-old traditions as in Great Britain. Cabinet and Parliament have no choice in the end but to be guided by it. Premier Daladier may be granted "dictatorial powers"; yet he must abide by public opinion and could not attempt to curtail it. "No cabinet that tried seriously to curtail freedom of opinion could long stay in power. If Parliament were not in session, it would face such a barrage of criticism from the press and citizen groups, like the League for the Defense of the Rights of Man, that the position of the Government would be untenable" (p. 36). The fact that democracy has collapsed in Italy, Germany, and Spain does not mean that it will meet with the same fate in France, which, as a nation, is far more mature politically than her three neighbors. And the very fact that twice before in a century and a half French democracy has been engulfed by a fascistic reaction is

a safeguard against any inclination to let history repeat itself a third time. Waterloo and Sedan should be reminders of the ultimate fate of all dictatorships.

Two chapters of Professor Sharp's book are devoted to the rôle played by the state in economic life and social welfare. These will be especially useful to American students whom six years of New Deal government have taught not to neglect the economic and social forces moving behind the political scene. However, many will regret that only casual reference is made to the "France of beyond the seas," as the race-unconscious French like to call their colonies. This will be felt all the more since foreign threats have made the French increasingly "empire-minded."

Although Professor Sharp's study is intended mainly for American students of comparative government, its wealth of informative material makes it of interest to a much wider public. Admirable summaries of the French system of education, of the administration of justice, of the organization and methods of the police, etc., should help to dispel the errors and strange preconceptions about France which are so current in the American press and periodical literature. From this point of view, the volume should be an indispensable reference handbook on the desk of any foreign editor or magazine writer. A few unimportant flaws, such as the assertion that Appellate Court judges wear red ceremonial robes as do the justices of the Court of Cassation, and not black robes, do not affect the solidity of this study.

ROBERT VALEUR.

Columbia University.

Why Hitler Came into Power. BY THEODORE ABEL. (New York: Prentice-Hall, Inc. 1938. Pp. xi, 322. $2.75.)

As the National Socialist conquest of the German state recedes in perspective, the chronicler of that phenomenon is being supplemented by the more scientifically minded investigator. The author of the present volume, a well-known sociologist, is distinctly of the latter type. The technique of his inquiry is, to say the least, ingenious. At considerable expenditure of time and personal funds, Professor Abel promoted an essay contest among the rank and file of the National Socialist party in Germany. From this contest he emerged with some six hundred rather complete autobiographies of Hitler adherents who joined the party before 1933. Relying almost entirely upon the data furnished by these autobiographies, he then proceeded to write this book, the form of which is almost as unusual as the sources. Eschewing the charts, tables, curves, and other mechanical paraphernalia of the professional statistician, to which others, supplied with similar data, might have been tempted to resort, he has woven many generous excerpts from his autobiographies

into the context of a series of narrative and expository chapters. Some of these reconstruct the history of the National Socialist movement; others analyze its background and the factors which accounted for its success. They provide fascinating literary fare as well as a most efficient medium for promoting the scientific object of the investigation. The last two chapters consist of reprints of six complete autobiographies, each representative of a distinct social level. Only in a brief appendix does the author finally succumb to dealing in figures, incorporating in a few succinct tables a numerical summary of his data.

Those who expect to find in Professor Abel's book some startlingly novel interpretation of Hitler's rise to power will be disappointed. The book's main purpose is to measure, in the light of the author's unique personal data, the relative importance of each of the main factors to which that rise to power has hitherto been ascribed, including Hitler's own leadership, the strategy of the party tacticians, and the favorable circumstances of popular discontent. The results are highly important. They indicate, for instance, that earlier commentators have generally underestimated the contribution which Hitler's own capacity for organization and political leadership made to his cause. They also indicate that we have hitherto under-estimated the importance of the contribution to Hitler's success traceable to the non-economic sources of discontent in post-war Germany and to the indigenous forces of counter-revolution which inspired and nourished the National Socialist movement.

Whether the book is entitled to be regarded as a systematic and comprehensive interpretation of why Hitler came into power may be open to dispute. Doubts will arise as to the reliability and the representative character of the autobiographies which not even the author's apparent circumspection and his elaborate attempts at objectivity will entirely resolve. There can, however, be no doubt that the book makes one of the most original contributions to an understanding of Naziism which has yet been written. It should prove a useful supplement to the historical efforts of Konrad Heiden on the same subject and to the recorded speeches and autobiographical works of the Nazi leaders. As the author himself suggests, it should also help to refute some of the more bizarre conclusions of current dogmatic interpretations of Naziism which imply that observation and the law of causality must cater exclusively to some ideological assumption that has axiomatic and universal validity.

ARNOLD J. ZURCHER.

New York University.

Nihon Kempō Seitei Shi Kō, or "Lectures on the History of the Establishment of the Japanese Constitution." BY WATANABE IKUJIRŌ. (Tōkyō: Chickura Shobō. 1937. Pp. 423. 3.20 Yen.)

Studies of Japanese constitutional history have flourished during the past five or six years; interest stimulated by political controversies has

been fed by a mass of newly published source materials and the opening to trusted scholars of many important family archives. Dr. Watanabe is one of the historians who have been privileged to see much of this new material. In addition, after a career as professor of history at Kyōto Imperial University, he was for many years an official of the Imperial Household, assisting in the compilation of the 260-volume chronicle of the life of the Emperor Meiji. This experience adds peculiar interest to what he has written since his retirement in 1933, even though he cannot cite the special sources of information which must have been available to him. For this collection of articles published between 1935 and 1937 in various journals (unfortunately not always indicated), Dr. Watanabe has sought so to select and discuss topics of the Meiji era as to add historical perspective to contemporary political debates. Is parliamentary government denounced as un-Japanese? He shows that the same arguments were used in the 1880's, and that the constitution was adopted only when the Emperor and his counsellors had been convinced that it not only was consistent with but was the logical development of the Imperial tradition. Has the Department of Education become a focus of political controversy? Dr. Watanabe's study of the men who advised and drafted the Imperial Rescript on Education shows a happy balance between conservatives and progressives.

Other topics are dealt with in a similar manner: the Imperial Oath in five articles of 1868, the establishment of the cabinet system, the conflict in principles between Itō Hirobumi and Motoda Eifu, changes in ideas regarding the Imperial Household and the national polity (*kokutai*) following the Restoration, and the views of Itō Hirobumi, Fukuzawa Yukichi, and Mutsu Munemitsu on constitutional government. Although the essays are semi-popular and not fully documented, they are of genuine interest, not only as the interpretations of a competent historian, but also because just such explanations of the conservative care of the advisers to the Emperor Meiji have, during the last several years, been the strongest defense of the Japanese constitution against its nationalistic critics.

CHARLES B. FAHS.

Pomona College.

Imperial Japan, 1926–1938. By A. MORGAN YOUNG. (New York: William Morrow and Company. 1938. Pp. 328. $3.00.)

Undoubtedly this is the most informing volume on Japan by a journalist that has been published since the appearance of the same author's *Japan in Recent Times, 1912–1926*, a decade ago. Mr. Young was editor of the *Japan Chronicle*, published in Kobe, from 1912 to 1937, and the book reflects in a large measure the pages of this remarkable journal, including even some that its readers never saw because of the ban of the Japanese censor. Like the *Japan Chronicle*, Mr. Young's book is definitely

anti-Japanese, perhaps even a little more rancorous than his earlier book, all of which might be expected inasmuch as the Japanese government has recently forbidden the author to continue his journalistic career in Nippon.

Mr. Young devotes himself almost entirely to the political scene in Japan and makes little pretense of examining the economic aspects of his subject. With unerring instinct, his disapproval of Japanese polity leads him to assign the lowest motive to almost every move of the characters on the chessboard of Oriental politics. Nevertheless, his statement of facts is almost flawless, and it is embellished with a richness of detail frequently lacking in books on Japan. American readers will be grateful for his account of military intrigues leading to the breakdown of parliamentary government in 1931–32. This story has never been fully told, and never well documented, and still remains inadequately explained. But Mr. Young has made a noteworthy contribution to our understanding of this dark episode. His accounts of the assassination of Hamaguchi and Inukai and the Army Revolt of 1936 are notable, while his descriptions of the obscure Tachibana and the priest Nissho, together with the Ketsumeidan, Aikyojuku, Shimpetai, Jimmukai, and other patriotic and fascist societies bent on murdering all opponents in their way to the attainment of the ideal totalitarian state, will be welcomed by Western students of Japanese politics.

Unhappily, the whole of the book suffers from a journalistic style; but notwithstanding this glaring defect, the factual material presented by Mr. Young constitutes a real contribution to our comprehension of Japanese politics.

KENNETH COLEGROVE.

Northwestern University.

The Real Conflict between China and Japan; An Analysis of Opposing Ideologies. By HARLEY FARNSWORTH MACNAIR. (Chicago: University of Chicago Press. 1938. Pp. xvi, 216. $2.00.)

The struggle between China and Japan, which dates back—apart from its earlier and ancient phases—to 1894, has frequently been conceived of as a purely political war for possession, riches, jobs, power. This book tries to show that the old conflict between China and Japan cannot be understood perfectly unless one realizes that it has been aggravated, and has gained momentum, by the fact that the Chinese world outlook is different from the Japanese, and hence the political goals. On the basis of rich material, the author shows that the age-old, seemingly merely ideological, differences imply in fact different politics; and that therefore more than

material or political aims enter into the conflicts. Studying this well documented book, the reader will realize how great a part these political ideologies play in history, that they are necessarily an integral element of the great world-conflicts, because in the political as in every other human sphere the far-flung aims of the state rest on a broad irrational and traditional basis and can never be interpreted merely in terms of material wealth and political power. The dynamic nature of the state, in other words is never abstract, but always historical, and that means tinged with an ideological element. Ironically, those statesmen who profess not to share the materialistic interpretation of history seem to be most adverse to the concept of "ideological wars."

To many readers, Professor MacNair's presentation of the Japanese point of view will be very interesting. Perhaps it should have been more emphasized that a political system in which pride, prestige, and unlimited ambitions are the main motives is nervous and unbalanced. Any hope of its "appeasement" is from the outset futile, which anyone should know who realizes that any retardation of Japan on her way to her ultimate goals would make her only more determinate and daring. The author also seems to share the view that there were, and perhaps still are, forces in Japan working for a "sensible" policy. If there were such, they have by necessity been powerless, as any analysis of the Japanese political system proves.

EMIL LEDERER.

New School for Social Research.

Survey of International Affairs, 1937. By ARNOLD J. TOYNBEE, V. M. BOULTER, AND OTHERS. (London: Oxford University Press. 1939. Two volumes. Pp. 674 and 434. $17.50.)

A Short History of International Affairs, 1920–1938. By G. M. GATHORNE-HARDY. (London: Oxford University Press. 1939. Pp. 487. $3.50.)

All students of world politics throughout the English-speaking world have long since come to regard Chatham House, the headquarters of the Royal Institute of International Affairs, as an unfailing source of scholarly publications which can nowhere else be matched for completeness, accuracy, and objectivity. The *Surveys* and *Documents* for each year are always invaluable compilations. The special monographs and books are seldom less distinguished as contributions to historical and political science. Gathorne-Hardy's revision of his *Short History*, first published under the auspices of the Institute in 1934, went to press—somewhat unfortunately—in August, 1938. The "Peace" of Munich, which should have been the climax of the narrative, is relegated to a sketchy post-

script. Nevertheless, there is here available one of the most compact and assuredly one of the most smoothly written histories of post-Versailles diplomacy. Half the volume deals with "The Period of Collapse, 1930–1938." The treatment of so vast a field in one volume is necessarily superficial. But what is lacking in depth is more than made up in breadth and perspective.

Arnold J. Toynbee and his collaborators on the annual *Survey* have never cramped themselves for space. Here again, as in the issues for 1925 and 1935, they have resorted to two volumes. The first deals with political and economic trends, the Sino-Japanese conflict, Central Europe, North Africa, and the Near East. The second is devoted exclusively to the conflict in Spain from its outbreak to the close of the year 1937. Here, as usual, is a richly detailed and well ordered narrative, exhibiting in full measure those qualities of industry, insight, and urbane evaluation for which the editors are famous.

In only a few respects are these latest volumes in any sense disappointing. The pure fire of passionate devotion to truth and righteousness which made a masterpiece of Professor Toynbee's earlier volume on the conquest of Ethiopia has somehow faded into a smoky and wavering flame in his treatment of Spain. The macabre farce of the London "Non-Intervention" Committee was as worthy of his talent for withering analysis as the comedy of "sanctions" against Italy. But he is content now with simple narration. The genesis of the Spanish "rebellion" in Rome and Berlin is minimized. The fact that Franco reached Morocco in a British plane is not even mentioned. The determination of the Tory leaders to deliver Spain to Fascism is hinted at but not developed. A similar shrinking from realism is apparent in the treatment of the "purges" in the U.S.S.R. That Stalin's ruthlessness may have saved the Soviet Union from the secret forces of disintegration which disrupted Austria, Spain, and Czechoslovakia is scarcely suggested. For Professor Toynbee "the fact of Muscovy's madness was not in doubt." The U.S.S.R. was a "gigantic madhouse" which consummated its own "self-erasure" from the international scene. The reviewer ventures to believe that this verdict, unlike most of Professor Toynbee's shrewd evaluations, will come to rank with his more recent judgment of the "Peace" of Munich in the pages of *Foreign Affairs*: those who later judge the judgment will be forced to pronounce it wrong.

But it is perhaps unfair to condemn, even if one must regret, these occasional symptoms of blindness. The staff of Chatham House cannot forever remain immunized against the slow decay of mind and will among the rulers of Britain. Here is still much of the old vision which is now rapidly turning to ashes. The *Survey* for 1937 is another impressive monument to democratic defeatism during the years before the final

débâcle. Here is told with eloquence and foresight the story of Fascist aggression in China and Spain and the success of the "Triangle" Powers in "anaesthetizing the three democratic Powers by gassing them with anti-Communist propaganda." Blum's betrayal of Madrid and Eden's formula of "peace at almost any price" have since led to consequences which Toynbee here clearly predicts. To write the history of a decadent age, to share in that decadence, and yet to see vividly the processes at work and to state them lucidly for the benefit of a sadder (and possibly wiser) posterity, is in itself a remarkable achievement.

FREDERICK L. SCHUMAN.

Williams College.

L'Europe et la Question Coloniale. By GILBERT MAROGER. (Paris: Librairie Recueil Sirey. 1938. Pp. x, 464. 55 fr.)

The author of *La Question des Matières premières et les Revendications coloniales* has published another book in this general field under the auspices of the Centre d'Études de Politique Etrangère. The purpose of the new study has been defined as an examination of the different legal and political problems which derive from the claims for colonies made by Germany and Poland, but it deals in fact almost exclusively with the German claims.

The introduction draws attention to the fact that the twentieth century is an era of a new imperialism. Its adherents come from states poor in capital but rich in labor, and their demand for colonies is basically not for areas of settlement but for access to raw materials. Its advocates are not the industrial and financial circles of the upper bourgeoise who believed in the white man's burden in the nineteenth century, but in the broader levels of the lower middle class. Those who refused the myth of the class struggle for the division of the national wealth have now accepted the myth of the national struggle for the division of the riches of the earth, and have become bearers of a new nationalized and socialized imperialism.

The first part of the book is an exhaustive study of the legal sources of the present mandate system. The second part deals with the history and nature of the German claims. Of the many reasons given for demanding colonies, honor, morality, equality, and economic necessity, the author discusses only the last-mentioned to any great extent. He is doubtful about the economic benefit of a return of the former colonies, first because the technique of capital investment by credit expansion cannot create a permanent market for capital goods, and second, because the actual saving on foreign exchange which would result from buying raw materials within the new currency-area would not amount to more than one per cent per year for the next ten years.

The conclusion deals with the author's view of the correct attitude to be taken by France. He warns against the danger of returning the Cameroons and thereby destroying the strategic routes to Lake Chad and the security of Equatorial Africa which it has taken the French eighty years to achieve. But apart from this specific consideration, he invites his countrymen to adopt the larger view and to realize that the German creation of an economic sphere of influence in Central Europe demands that the French should become conscious of the full significance of their own empire.

The different parts and sections of the book are interesting and well done, but the relations of the sections to each other and the book as a whole escapes the reviewer. Large parts of the discussion of the legal sources of the mandate system seem irrelevant to the question of the return of the colonies. The validity of the economic arguments put up by the Germans is apparently of no significance for the formulation of a French policy. Four hundred pages of reasoning produce as a conclusion a clarion call for a reaffirmation of faith in French imperialism. The reviewer was at first inclined to explain this apparent lack of cohesion as a symbol of the uncertainty of our times, but to those who dislike symbolic interpretations as objectionable forms of higher criticism, he offers a more simple explanation. The author apologized in the preface for having left his material in the form of a report of a study trip.

NICHOLAS J. SPYKMAN.

Yale University.

The Colonial Empire and Its Civil Service. By CHARLES JEFFRIES. (Cambridge: At the University Press; New York: The Macmillan Company. 1938. Pp. xxv, 259. $3.00.)

This book leaves the reader with a strong feeling that the British Colonial Service has gone a long way since the well meaning but uninformed despotism of Mr. Mothercountry; and with a definite understanding of the processes by which this progress has been achieved. The volume traces "the growth of the Colonial Service from small beginnings to its present position as one of the largest and most important of the British public services, and its development from a series of isolated components to a corporate body with a considerable amount of homogeneity." The most important aspects of this development, the establishment of a single Imperial Colonial Service comprising the grades normally recruited from outside the colonies themselves; the organization within this larger whole of unified branch services upon a professional, not a regional, system of grouping; and the utilization of modern methods of recruitment and personnel management, are described and evaluated. Unification, which followed the Warren Fisher report of 1930, is pictured as having

produced revolutionary effects by giving rise to a Colonial Service which includes and transcends the local services of the individual colonies "without affecting their local flavor, and whose members, while remaining officers of the Colony in which they are employed, can also claim partnership in a great Imperial Service." This service, the author believes, has been developed in such a way that it will lead towards, and not away from, the ultimate objective of British colonial policy: "the development of the various communities of the Colonial Empire into self-supporting and self-reliant partners of the British Commonwealth of Nations, each preserving all that is best in its individual culture and tradition . . . ."

Mr. Jeffries has divided his book into two parts: an historical account of the development of the Colonial Service, and a description of the service as it is today. In both sections he presents an abundance of facts concerning organization, recruitment, pay, promotion, pensions, transfers, conditions of service, and other matters of importance in any system of civil service. Of especial interest is an admirable chapter on the Colonial Office. The author's main sources are committee reports and other public documents. The information which he has gained during a distinguished career in the Colonial Office (in which he is an assistant secretary) is sparingly used, especially in Part I, but undoubtedly has added to the perspective and authority of the book. Factual appendices increase the usefulness of the volume for the student. All told, Mr. Jeffries' work is excellently done, and will take its place alongside Sir Anton Bertram's *The Colonial Service* and Sir George Fiddes' *The Dominion and Colonial Offices* as a permanent contribution to our knowledge of the important subject with which it deals.

JOSEPH R. HAYDEN.

University of Michigan.

The Turkey of Atatürk. By DONALD EVERETT WEBSTER. (Philadelphia: American Academy of Political and Social Science. 1939. Pp. xv, 337. $2.50.)

Numerous books in several languages have appeared in recent years on Atatürk and the new Turkey. This compact volume, using Turkish sources and personal knowledge, is the best systematic study of "the complex of changes in modern Turkey" that has yet appeared. As such, it should be welcomed by those interested in Turkey and the political and social forces at work there.

The author, writing as a sociologist, "undertakes an exposition of the revolutionary reforms initiated and the devices by which they have been promoted and popularized." He is interested in works and in faith—works of the leader and the faith of the people. Sections on foreign affairs, development of leadership, development of ideology, Kamâlism, party

in politics, propaganda, and *étatism* will be of specific interest to workers in the field of government.

Careful delineation and interpretation, with full documentation and charts, characterize the chapters dealing with background rather than new material and the thoughtful analysis which emerge in the succeeding chapters. The author rightly stresses as the crux of the Turkish problem the vitalization of the potentialities which have lain dormant under fatalistic passivity and under oppression, both of physical environment and of past rulers. Inertia has given way to activity under the compulsion of nationalism, the force of which is not under-estimated, and under the leadership of Atatürk. Excellent biographical sketches are given of Atatürk and his successor Inönü.

Behind Kamâlism, the convenient designation for the complex of policies in Turkey, the author traces a long line of heritage from Rousseau, the French Revolution, Durkheim, Ziyä Gokâlp, "the ideological sire of the Turkish Reformation," and others. Five of the six points of Kemâlism, accepted as principles of the official People's party and incorporated into the constitution, are briefly (perhaps too briefly) treated, although *étatism* and nationalism come in for fuller treatment in other chapters. The discussion of the party in politics deals principally with its organization.

The author shows himself concerned with the question: Is Turkey a dictatorship or a democracy? His answer—a democracy, based largely on the reasoning that Turkey is by comparison less of a dictatorship than other states so labeled—will not satisfy everyone. He is on safer ground when he points out that Turkey's objective is democracy, and that the nation is receiving democratic training in schools and in contemporary elections. One wonders whether the core of Professor Webster's problem is not that, presented with only two choices, one of which is a term of opprobrium, he is understandably reluctant to stigmatize thus a régime which is creating human enlightenment and welfare. One may suggest, rather, that Turkey is an outstanding example of the application of leadership with the goal of "carrying out reforms within the nation until all the people enjoy the best in political, economic, and cultural development which this age possesses."

This carefully prepared and authoritative volume, written with sympathy obviously derived from understanding and appreciation of the Turkish point of view, will repay close study.

PHILIP WILLARD IRELAND.

Harvard University.

It Is Later Than You Think; The Need for a Militant Democracy. By MAX LERNER. (New York: The Viking Press. 1938. Pp. x, 260. $2.50.)

Under a striking title, Professor Lerner presents a penetrating analysis of our present discontents. Since Spengler's rather discredited "*fin de siécle*" pessimism, how often have we been told, by representatives of the well-known undertakers Jeremiah, Cassandra and Company, that we attend "the death dance of civilization!" Consequently, sceptics as we are, we prefer to turn to the more sober subtitle: "The need for a militant democracy." Its message implies that liberalism of the pre-war style is at an end and that democracy of the post-war style can be saved only by transforming the capitalism of the "oligarchs" into "democratic collectivism." There is nothing strikingly new in this approach, and even the term "militant democracy" has come to be commonly appropriated by political scientists. Incidentally, it has been used by the reviewer in very much the same way, and with similar conclusions, for the militant defense of democracy against fascism in a series of articles published in this REVIEW as early as 1937.

It could be expected of an author of Dr. Lerner's brilliancy of style and mastery of facts that he should hit a high mark as a diagnostician of the evils of our economic system. Indeed, the book abounds in sparkling comments on many manifest disturbances of our social order, though it falls short of the devastating irony of Silone's *School of Dictators*. But the real test comes only when the diagnosis is supplemented by constructive proposals for therapeutic treatment.

This is attempted in the chapter "Planning as an Imperative." Monopoly capitalism manipulated in the interests of the few, the "oligarchs," should be, and must be, replaced by a system which implies (p. 161) "selecting the twenty or thirty basic industries which contribute most heavily to the national income; estimating the consumption schedules for their products . . . at prices which would yield a tolerable profit on increased production levels; and stepping up production simultaneously in all the industries according to the allotments *to be worked out within a framework set by the planning authority.*" (Italics mine.) This program carries with it "socialization of the banking and credit system"; "government control of foreign trade" (correlated, as the author evidently implies, to a managed currency); "government direction of the investment process"; "ceiling and floor for profits." All this could be accomplished, we are asked to believe, while safeguarding initiative and the profit incentive, and even maintaining the monopoly structure of private capitalism. In fairness to Dr. Lerner, it must be said that he considers this scheme only as "agenda for a democratic collectivism," and not as a comprehensive blueprint for immediate action.

"All this must be accomplished, if it is to be accomplished at all,

through democratic processes" (p. 164). Here lies the snag besetting any planning scheme. The goal is described, but one fails to see the road leading to it. How can this process of radical transformation of our present political and economic system be performed democratically? The answer is given in the chapter, "Power Is What You Make It." The power-generating processes are seemingly to be found in votes, majority shifts, rational conversion of the masses, and acute awareness of their function in the new society. Evidently a minimum of coercion is to be applied, and militancy is reserved for the very likely situation in which the "oligarchs" try to stave off the gradualistic transformation by violence of their own, as they are apt to do when their *status quo* is in danger. In other words, power should be transferred from the "ruling oligarchs" to the democratic majority. It cannot have escaped an astute observer of Dr. Lerner's caliber that the democratic majority as such is an abstraction, incapable of ruling. In action, any majority becomes again an oligarchy, whether of the politicians, the economists, or the planners, or another type of élite, self-appointed or elected.

The least convincing part of the book is that in which the author tries to demonstrate (or rather fails to demonstrate) the processes by which the democratic majority is to be educated, formed, and set in motion. Here again, too much is taken for granted. We know by now that the *Front Commun* experiment was a dismal failure whenever it has been tried, and that the real interests of the middle classes are at least as much anti-socialist as they are allegedly anti-capitalist. A Labor party as an independent political unit, in this country at least, would be a disaster of the first magnitude, because it would destroy at once the equilibrium between the two alternating parties.

Here is the vital gap in the author's conclusions. If he expects the transfer of power from the oligarchs to the democratic majority merely by evolutionary methods, he necessarily reckons with a long, very long, process of educational infiltration which, by its very nature, makes the melodramatic title of the book rather an over-statement. If he envisages, however, an acceleration of the process, we would establish fascism manipulated by democrats, and here the reviewer wholeheartedly agrees. If coercion must be, he prefers fascism by democrats to fascism by fascists or bolshevists. The hitch in the scheme is that the apprentice-sorcerer may not be able to control the spirits he has evoked. At any rate, little comfort is to be found in the by now stereotyped, neo-humanistic *finale* of the book, since the renaissance of humanistic ideals and practices cannot be planned.

History, after all, does not evolve by shocks, ruptures, and jumps, but gradually and imperceptibly. What appears to the eye-witness as a break is usually only a step in transition between two periods. Great

economic and political systems do not die violently and suddenly; we have to think in decades or centuries when measuring recession or advance of great secular movements such as democracy or capitalism. One may "plan" on a limited scale if means applied and results to be gained are measurable. Perhaps the experiment with public corporations rather noiselessly evolved in England, Switzerland, and other capitalistic democracies should point the way. To undertake wholesale planning for large political units is utopian or amateurish. Blueprints without psychology are useless. The impending failure of the fascist experiment—and there are many indications that it will be a catastrophic failure—will, it is hoped, contribute more than anything else to creating that spirit of moderation and compromise between capital and labor which alone will guarantee the atmosphere of the transformation of the capitalistic into the collectivistic society. One should be careful not to apply too much the facile black and white technique in a painting which has countless complementary colors. Our capitalists are less fools and labor is less angelic than we think. Planning must grow from inside the capitalistic society; it cannot be imposed upon it from outside. If imposed, it is no longer democratic. One has to make the choice.

For the moment, politics has precedence over economics. It is always argued that fascism can thrive only in an economically favorable climate. This is a dangerous half-truth. Fascism is a technique for the attainment and preservation of political power. It offers no solution for economic problems; such attempts at solution as may occur are only incidentals of the power mechanism. Before the remaining democracies, or what is called by such a name, can begin to reconstruct their social fabric, either by self-adjustment or by deliberate planning efforts, the political danger of fascist power-politics abroad and at home must be removed. For this immediate task, it is perhaps later than we think; for large-scale planning it is, in the reviewer's opinion, decidedly too early.

KARL LOEWENSTEIN.

Amherst College.

The Ruling Class (Elementi di Scienza Politica). By GAETANO MOSCA. Translated by Hannah D. Kahn. Edited and Revised with an Introduction by Arthur Livingston. (New York: McGraw-Hill Book Company. 1939. Pp. xli, 514. $4.50.)

More than ever it is clear that the answer to proletarian economic and political philosophy must be sought outside of the conventional eighteenth-century metaphysics of democracy. The volume in hand is of marked significance to political science because it is just this function that it performs with striking clarity. In a large sense, the issue today is whether socialism—Marxian or otherwise—should be given an opportu-

nity to reorganize society (pp. 327, 428 ff., 438 ff.). Italian political realism, of which Mosca is an eminent exponent, is becoming more and more one of the alternatives to the challenge of historical materialism.

What is this stream of thought which we may call Italian political realism, and which Professor Livingston finds "very Italian" (p. xii)? It seeks the laws of politics by observing the behavior of political groups in every variety of historical situation. Can we find from history a law like Mosca's that "type and level of civilization vary as ruling classes vary" (p. xix)? Of what value is the historical verification presented by Michels, Pareto, and Mosca? Are the generalizations of the Italian realists from Machiavelli to the present confirmed by history? The Marxian must insist that the pseudo-verification of the Italians is shoddy stuff compared with the scientific verification of the historical materialist. Mosca has no dynamics of history, they would urge—and with heat.

Mosca would reply that if he explains nothing else he does explain the dynamic aspects of politics in history. Human behavior is very complex, but the essential problem politically in any society is its ruling or political class, with the corresponding social types, the complexity of social forces, and the "political formula" or the legal and moral basis on which power rests (pp. 70, 103 ff.). He is trying to assay perennial, repetitive social process, in which psychological factors and the inherent nature of humankind play their parts. Yet Mosca insists that we can best foresee what is *never* going to happen (p. 283).

Basically, Mosca finds two political forms, the feudal and the bureaucratic. These run through history like Ariadne's thread, though the thread itself is the government of the few, of the ruling class. Political science must, therefore, concern itself with the classification of oligarchies. Thereby we derive a pattern of human behavior, though Mosca will admit that there is progress rather than repetition in many elements of the social structure, particularly in the moral level and the achievements of civilization. The moral level of the bureaucracy, he believes, is really the moral level of the ruling class (p. 408). But a successful ruling class is not based on the more ignorant and vulgar levels of society. For Mosca, the bureaucracy is the core of the modern state; he cannot be accused, as some, of stating this proposition and then leaving it dangling in the rarefied air of speculation.

If the Marxians believe in the dominance of one class over all others as the clue to progress, Mosca, like the authors of *The Federalist* and *L'Ésprit des Lois*, assumes that the balance of social forces is the true political path (pp. 427 ff.). Montesquieu saw political and social forces behind the separation of powers, and Mosca relates his balance of forces to the level of civilization, in which multiplicity and variety constitute a fundamental

criterion of value. A "mixed government" is superior to any kind of dictatorship.

"No social organization," asserts Mosca, "can be based exclusively upon the sentiment of justice" (p. 287). While he believes that "social democracy" is the most dangerous intellectual malady of our age (p. 325), under mass-supported collectivism the bureaucracy—not the masses—controls. Economic life may become in large part a bureaucratic function (pp. 284 ff.). On the philosophical side, historical materialism is given a scathing rebuttal (pp. 438 ff., 478 ff.). Mosca and Pareto must be classed among the ablest of the critics of Marx and his exegetes.

The democratic tendency—to replenish ruling classes from below—is constantly at work in all societies (p. 413). Mosca is a strong defender of representative and legal government, although he regards the establishment of universal suffrage as a mistake. Under the representative system, the highest levels of civilization, the greatest complexity in the social structure, is possible. The representative system results, not in government by a majority, but "in the participation of a certain number of social values in the guidance of the state" (p. 155). With a proper strengthening and functioning of intelligent social elements, the twentieth-century crisis in the system may be overcome (pp. 465 ff.). Civil strife, in turn, is least bloody and protracted when the juridical defense of the individual is best developed (pp. 120 ff., 204).

FRANCIS G. WILSON.

University of Washington.

L'Homme d'État: Analyse de l'Ésprit Politique. By JULES KORNIS. (Paris: Librarie Felix Alcan. 1938. Pp. 576. 60 fr.)

In this book, Professor Kornis of the University of Budapest presents some reflections on the characteristics of political leaders. His analysis is divided into two main sections, one concerned with the ethics of political leadership and the other with analyzing the psychology of statesmanship. The thesis of the first part may be summarized as follows. The true statesman is conscious of his mission, holds passionately to his political ideals, possesses enormous will-power because of the firmness of his convictions, and stimulates enthusiasm among his followers. He also possesses two auxiliary qualities, a feeling for realities and a deep understanding of human nature. In the second part, the author is concerned with the description of general types. He distinguishes between the rational and the intuitive, the aggressive and the intimidated, the idealistic and the realistic, the cold and the expansive, the static and the dynamic. In connection with a discussion of the rôle of reason in politics, there is some consideration of the relation of scientific, philosophical, historical, legal, and economic training to the preparation for statesmanship. There is a

brief discussion of the psychological characteristics of the English, French, Italian, and German, and of the aristocratic, plutocratic, bourgeois, peasant, and working-class origins of various political leaders.

While the book is undoubtedly based upon wide reading, it shows a surprising lack of familiarity with the literature on leadership. There is no mention of the work of such men as Spranger, Kretschmer, Bradford, Ellis, Geiger, Simmel, Freud, Adler, Jung, and many others in sociology, social psychology, psychiatry, and related fields, who have been concerned with the analysis of personality.

The conservative bias of the author is displayed clearly in many places. Ramsay MacDonald, by opposing Communism, saved England and humanity (p. 15). The influence of Lenin is referred to as "diabolical" (p. 26). Karl Liebknecht's oratory was nothing but "blind fanaticism" (p. 230).

Among the statesmen mentioned most frequently are Bismarck, Napoleon I, Mussolini, Cavour, Gladstone, Clemenceau, Disraeli, Lenin, and Richelieu. Hitler is given relatively little attention; and Washington, Lincoln, and Wilson are the only American political leaders to whom reference is made.

HAROLD F. GOSNELL.

University of Chicago.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

Despite its title, *The Administrative Process* (Yale University Press, pp. 160, $2.00), by James M. Landis, deals only with the administrative tribunal. Much of the book's value derives from Dean Landis' experience as chairman of the S. E. C. To summarize the book's contents: The inadequacy of the legislative process and the unspecialized, negative characteristics of the judiciary led to the creation of the administrative tribunal to deal with the modern complexities of a positive democracy. Indeed, some tribunals go beyond the policing of business and take on managerial characteristics. Dean Landis favors independent, specialized commissions. "Efficiency in the processes of governmental regulation is best served by the creation of more rather than less agencies." So also is responsibility. The jamming of functions together in mammoth departments is unwise. The administrative tribunal avoids further concentration of executive power and strengthens the mechanics of balance upon which separation of powers rests. The President's Committee on Administrative Management was quite wrong. The tendency to delegate law-making powers to independent commissions is proper, and even Henry VIII clauses permitting commissions to amend the laws under which they operate might be desirable. We might borrow the English practice of letting Parliament approve or disapprove administrative regu-

lations. Pre-interpretation of administrative legislation before violation is helpful. Commissions are hampered by civil service: the trial examiners of the S. E. C. are paid low salaries by civil service decision. Judicial review of decisions of administrative tribunals has declined and is less strict when the courts have confidence in the integrity of particular commissions. To be sure, the courts have sabotaged laws. The Supreme Court's emotional opinion in Jones v. S. E. C. undermined business cooperation. Again, the courts have substituted their judgment for that of commissions. We should not destroy the principle of supremacy of law, but should give to the commissions finality where specialized knowledge of the regulated industry is essential and to the courts finality in questions of law, that is, in matters in which legally trained judges are properly experts. Expertness is the key. We should like the book to go deeper. Are professionalism in spirit and the fact (or hope) that arbitrariness will defeat itself adequate restraints? Is not the danger of lack of coöperation with other branches dismissed too quickly? Will not disintegration of administration ultimately destroy effectiveness in government? Throughout the book runs the vice of that very expertness by which Dean Landis sets so much store: failure to see beyond its own horizons.—JOHN THURSTON.

Government Corporations and State Law (Columbia University Press, pp. 200, $2.75), by Ruth G. Weintraub, describes the maze of legal complexities resulting, under our federal system, from the creation of corporations by the national government. The picture is somewhat discouraging, for after all, governments are created for the purpose of governing, not in order to waste half their time disputing each other's powers and liabilities. Miss Weintraub herself becomes a little weary of the legal wrangling. She thinks that national officials have taken a short-sighted attitude in claiming every possible immunity, and that Congress has never thought out the problem; while the courts have set rigid limitations on imaginary interference by the states with national activities, rather than developing realistic tests of what constitutes interference. Miss Weintraub points out that many national government corporations have been set up under state incorporation laws, but that similar difficulties have arisen in the case of corporations established directly under national laws. Whether states may tax national government corporations is, of course, a matter of perpetual dispute. The chapter on state taxation of the salaries of employees of national government corporations apparently has been completely invalidated by the recent decision in Graves v. New York *ex. rel.* O'Keefe. There are many sources of conflict besides taxation. Are national government corporations subject to state laws respecting workmen's compensation, zoning, attachment, garnishment, building

regulations, mortgage moratoriums, public utility rates, etc., etc? " . . . the law . . . remains in a state of complete confusion." At the same time, there has been a large measure of coöperation between the two governments, and many states have passed laws to facilitate the operations of national corporations, frequently after lobbying by the national government. There is also much administrative coöperation. Still, as Miss Weintraub would agree, in this area, as in many others, federalism has meant confusion, uncertainty, delay, and increased cost. The use of the corporate form, as she points out, has not made much, if any, contribution toward a solution; actually, the fiction of a corporate personality distinct from the national government has not been observed. Forms alone are never an answer. In the United States, we seem constitutionally unable to adopt that practical and sensible attitude which characterizes Canadian federalism in these matters. We insist on going to court, and since it takes decades, and apparently sometimes centuries, for the courts to establish principles through the case method, Miss Weintraub can do little more than raise questions and point out that so many answers have been given that there is as yet no answer at all.—JOHN THURSTON.

Under the arresting title, *Cardozo and Frontiers of Legal Thinking*, (Oxford University Press, pp. xv, 315, $2.50), Beryl Harold Levy presents 117 pages of text by the author and 189 pages of miscellaneous opinions by the late Justice Cardozo. Proceeding on "the conviction that Mr. Justice Cardozo's philosophic approach to law and his analysis of legal practices constitute a major influence in the achievement of more enlightened justice and more rational and realistic legal method," the author lightly runs the gamut of "Legal Realism," "Philosophy and Law," "The Content of Justice," and "Moulding Society," to mention only a few of the more ambitious topics of jurisprudence discussed. Included also is a conventional fourteen-page biographical sketch of the Justice. With so little space at his disposal to consider the comprehensive subjects mentioned above, one is puzzled to see so much of it given to quotations from the more familiar writings of Cardozo as well as from scores of publicists on legal and other topics. The resulting chaos, or labyrinth, of excerpts does not fulfill the promise of the title. On a single page (15) the bewildered reader is exposed to Coke, Hobbes, Blackstone, Molesworth, M. R. Cohen, F. S. Cohen, Holmes, and Richard Walden Hale, Esq., of Boston. The author's comment is but a somewhat tenuous thread on which to hang the whole disjointed array. The student will be far better advised to read Cardozo's own books, especially *The Growth of the Law* and *Nature of the Judicial Process*. Indeed the author might better have heeded his own citation (p. viii), from Woodbridge: " . . . why should we comment on great philosophers, . . . when they have already told the world themselves." Justice Cardozo has not only expressed his

legal and juristic philosophy himself, but he has been able to do so in a terse, lucid, and artistic literary style. And the bulk of the book is equally disappointing. Instead of a survey of the frontiers of legal thinking, we have only twenty-two selected opinions of Justice Cardozo, arranged to cover the usual major fields of the law. But even this editorial task has been done, and much better done, by A. L. Sainer in his recent *Law is Justice* (notable opinions of Mr. Justice Cardozo). There is little, if anything, new in Dr. Levy's pages, either of ideas, of selection, or of interpretation. One closes the book feeling that a cogent title has been inflatedly misused.—ALPHEUS THOMAS MASON.

Behind the Ballots (Harcourt, Brace and Co., pp. 376, $3.00), wherein James A. Farley takes the mystery out of politics, is a disarming defense of the current operation of the party system. And it makes pretty good sense. Here, one feels, is one of the most successful politicians in American history telling us that a lot of hard work and a reasonable number of personal contacts hold the secret of political success. What is more—and here is a statement that should make any political scientist sit up, rub his eyes, and take notice—he says: "I could construct a major political party in the United States without the aid of a single job to hand out to deserving partisans." It could be done, says Mr. Farley, "with the help of a few simple ingredients like time, patience, and hard work." Let the major and minor political leaders shake their heads and bemoan this heresy as they will, the Chief of Staff of the victorious forces of Democracy has spoken. Does this mean, then, that James A Farley has become a one-hundred per cent convert to the merit system? Not at all. Nor is he one-hundred per cent against it—far from it. Yet he believes that many competent people come into the government service via the patronage route, and that that method is a democratic method. He contends that "men like Dr. Morgan (late of the T. V. A.), who think they are pursuing the only pure course by refusing to accept recommendations from senators and congressmen, usually wind up by appointing only their own friends and confidants. And that is a far worse kind of spoilsmanship than any other kind." We are, however, far from certain that appointment on the recommendation of senators and congressmen can be held within respectable bounds. And when he mentions such posts as those of federal judges, marshals, and attorneys as the kind of meat upon which congressional Caesars like to feed, one's blood runs cold. If we do not have to have patronage to run the party, and if a more objective and scientific method of choice exists, the less wise in the art of political strategy are tempted to suggest that the latter method be used. One of the outstanding features of this book, which never lags in interest, is its good-natured tone and its lack of all recrimination. There is not a single grudge worked off. One might reasonably raise the question whether Mr. Farley retains any

grudges. He is as diplomatic as a French ambassador. Even those who trust in polls and surveys of public opinion will forgive him his distrust of these lusty *enfants terrible*, considering his own accuracy in assigning Maine and Vermont to the opposition some weeks before the election of 1936.—JEROME G. KERWIN.

The recent mushroom-like growth of American literature in the public welfare field indicates an increasing, if somewhat belated, awareness of the importance and complexity of the problems involved. One of the latest additions to this literature is Volume 202 of the *Annals of the American Academy of Political and Social Science*, entitled "Appraising the Social Security Program." Professor Isabel G. Carter, the editor, has assembled twenty-two articles treating various aspects of the program, viz., the services for the unemployed, needy aged, dependent children, medically needy, and the problems of administration and finance. A selective bibliography and a summary of the recent recommendations of the Advisory Council on Social Security complete the volume. It is impossible here to evaluate the various contributions. Some are good, others are not. The treatment of administrative problems, by Frank Bane, Walter Matscheck, V. O. Key, Jr., and Lewis Meriam, is penetrating and well-balanced. But on the whole the compilation suffers from what might be called an "official bias." Of the twenty-six writers, fourteen are public welfare officials, four are acting as consultants for official agencies, one is an ex-official, and four more are ex-consultants. A thoroughly critical analysis of the present social security program from a group of this kind would be too much to expect. Even that outspoken critic of New Deal relief policies, Mr. Abraham Epstein, is conspicuously absent from the roster. The great majority of the authors subscribe wholeheartedly to the "bigger and better" philosophy of public relief. While they have ably presented this approach to the subject, it is readily apparent that a balanced and judicious appraisal of the social security program would have included adequate representation of other viewpoints as well.—PAUL T. STAFFORD.

In his critical analysis of *Labor Laws in Action* (Harper and Brothers, pp. xviii, 243, $3.00), John B. Andrews has brought his wide practical knowledge to bear in tracing the development of labor law administration. Dr. Andrews has long realized that the ability of government to extend and improve legal regulation of economic and social life by a growing system of labor law is limited by governmental capacity to provide adequately for administration. Therefore the present volume is an investigation of the organization and methods of administration of labor laws. Although the discussion raises fundamental issues with respect to government organization and methods of administration in fields other

than that of labor law, nevertheless Dr. Andrews sticks to his last and confines his study to the organization and work of state labor departments, and only indicates in passing some of the general problems, such as the relative advisability of a single-headed versus a commission form of organization, and the usefulness—or uselessness—of advisory councils. Dr. Andrews is on firm ground in his noteworthy chapters on factory inspection, although the inclusion of a chapter on British factory inspection makes the reader wish that the author had either undertaken a more thoroughgoing comparative study of British and American experience in factory law administration or else had confined himself only to the American scene. The newer social services of government in the labor field, such as unemployment compensation and old age pensions, have built up sufficient administrative experience, in spite of their newness in the United States, to warrant more than the somewhat cursory discussion which is given them. The volume will be welcomed by all who are interested in methods of administration as well as in labor law, and who believe, with Dr. Andrews, that in labor legislation, as in all legislation, administration is the breath of life.—JANE PERRY CLARK.

In his *The Theory and Practice of Modern Taxation* (2nd ed., Commerce Clearing House, pp. viii, 364), Judge William Raymond Green sets forth the fundamental principles of taxation in a clear and simple manner. The book is not a brilliant piece of work, but rather it discusses the problems of taxation in the language of the layman. Judge Green is a practical student of taxation. He is a judge of the United States Court of Claims, and formerly was chairman of the Ways and Means Committee of the national House of Representatives, and chairman of the Joint Committee of the House and Senate on Taxation. His study is a description of the various types of taxes, rather than an analysis of the theory of taxation. Three chapters devoted to the general problems of taxation, are indeed included; but the remainder of the work is concerned with descriptions of the types of taxes collected by the national government and in the several states. Rather full discussion is given the customary types of taxes used in the United States, including income taxes, profits taxes, customs duties, various sales taxes, estate, inheritance, and gift taxes, occupational taxes, and different forms of property taxes. An interesting feature of the work is the chapters concerned with the tax systems used in such European countries as Great Britain, France, and Germany, and in comparison with those employed in the United States. The author, however, indulges in very little analysis, drawing no conclusions, but merely explaining the general problems growing out of the various forms of taxation.—J. W. MANNING.

The old adage that nothing is more certain than death and taxes finds

proof again in Marvel M. Stockwell's *Studies in California State Taxation, 1910–1935* (University of California Press, pp. viii, 316, $2.50), but one is compelled also to agree with the author's thesis that taxation is related closely to current theories and conditions, and is, therefore, subject to frequent changes. The volume presents an historical survey, in considerable detail, of the changes in California taxation over a quarter of a century—a period during which the state was beset by numerous complicated tax problems. The tax problems of no two states are identical, but those seeking enlightenment in dealing with tax situations in other states will find this study an illuminating, well documented, and interesting study. The withdrawal of the state from property taxation, in an effort to curb the well-known evils of that source of revenue, led to some improvement, but the centrally taxed operating property of public utilities escaped with lighter burdens than the locally assessed general property; state revenues were inadequate, and desirable reforms were blocked. As a consequence, the separation of revenue sources finally was abandoned. The California inheritance tax has become accepted and is regarded as preferable to a state estate tax. The introduction of the sales tax gave only temporary relief from county property taxation, but the tax will probably remain because of lack of other revenues. The personal income tax is regarded as an important step toward more equitable taxation, but it has been opposed in some quarters. After discussing developments in relation to other taxes, the author concludes that progress in taxation should accompany new economic and social conditions and suggests the desirability of further reforms in California taxation.—Alfred G. Buehler.

State Conservation of Resources (Washington: Government Printing Office, pp. ix, 116, $0.15), by Clifford J. Hynning, is a study made for and published by the National Resources Committee. The study consists of three principal parts. The first, in one chapter, traces the growth of state management of resources, involving such control techniques as public ownership; ordering-and-forbidding devices; education, science, and technology; and the "purchase of consent." In the second part, four chapters are devoted to an historical sketch of the enactment of laws designed to conserve land, mineral, water, and human resources. In the third part, a final chapter traces the steps by which comprehensive planning of resources comes to be a recognized and institutionalized state function. The author concerns himself primarily with the development of ideas, concepts, and techniques, and makes no attempt to evaluate administrative results. Perhaps the reviewer does not appreciate the current implications of the term "conservation of resources." But if the term properly comprehends all the subject-matter of this monograph, it might

logically be extended to correspond with "functions of government," or at least with "administrative services." If education is conservation, might not certain other services such as, for example, police administration also be classed as conservation? In fact, would not the entire field of criminal law administration be conservation? Even a tax might be a conservation measure. A customs duty may protect and preserve our "infant" industries. If old age pensions are a conservation measure, would not the regulation of banks, investment companies, and insurance companies be a protection to private "pensions," and thus be conservation? One interested in the inception and statutory development of state programs of conservation will find the study a valuable reference.—P. S. SIKES.

The perennial problem of securing the happy combination and balance between primary source materials and secondary commentaries in American government courses is approached in a new and refreshing way by Professor R. K. Gooch in his *Manual of Government in the United States* (D. Van Nostrand and Co., pp. ix, 791, $3.75). The author is of the opinion that the usual solution (described in our syllabi as the "text" and the "book of readings") fails to give a proper emphasis to the real importance of source materials. Carefully selecting his materials, skilfully arranging them, and unifying them by discriminating expository treatment throughout each of the chapters, Professor Gooch has prepared a volume which, although it will remind one of a book of readings, can be used as a text in the traditional sense of the word. Some will object because of the radical departure from traditional ways which this book frankly represents. Others, with more reason, will question the advisability of this approach in so far as freshman courses are concerned. The arrangement of the materials is noteworthy. In the various chapters, the national, state, and local aspects of the chapter topic are included, with a resulting unity that is not obtained when the three levels of government are treated in consecutive order. Part I begins with an excellent, but short, chapter on the study of American government, and is followed with materials on the historical background of government in the United States and chapters on citizenship and the suffrage. The structure of the governmental mechanism is the subject of Part II, and Part III is devoted to the functioning of the legislative, executive, and judicial branches. A final section is concerned with the constitutional division of powers between central, state, and local units of government. The documentary materials are mainly constitutional and statutory provisions and administrative regulations, with excellent interstitial material from judicial decisions.—A. N. CHRISTENSEN.

When a former governor of Kansas can testify that he had "about

three hours of irritating contacts with job-hunters every day," one can understand why executives, although strong supporters of the party system, favor civil service. In *Personnel Administration* (Kansas Legislative Council, Research Department, Publication No. 89, November, 1938, xii, pp. 47), there is a brief but comprehensive survey of recent trends in public personnel systems. The study points to the savings from reduction of turnover to be expected with the use of a merit system. Forty-one per cent of Kansas state employees had less than three years of service at the time the study was made. The survey corroborates the findings of similar surveys, notably the one made under Professor Pollock's direction in Michigan, that even in states without a merit system, some agencies, because of the technical character of their work, are able to withstand the demands of the spoilsmen. In Kansas, technical positions in the following agencies, among others, have been kept out of politics—the state library, board of health, board of agriculture, division of auditing and accounting, the social security agencies, and the highway department (although state highway departments are notorious for the spoils involved in recruitment for non-technical positions). The Research Department recommends that, instead of providing civil service for Kansas by a revival of an old law still on the statute books, a new law be passed taking due account of improved methods in personnel administration which have appeared since the passage of the original act.—MILTON MANDELL.

In recent years, an increasing number of jurisdictions have called upon police consultants to survey their police departments, with the commendable objective of more efficient police service as their purpose. Such surveys of Chicago, Pittsburgh, San Francisco, Boston, and other cities have provided much technical and constructive improvement. In this volume, *Municipal Police Administration in Texas* (University of Texas Publication No. 3843, pp. 320), by Professor R. Weldon Cooper, a searching and comprehensive analysis of administrative, jurisdictional, and organizational problems is presented carefully and objectively. Such an area as Texas, largely rural, with inadequate state police (approximately 500, including 33 Rangers and 219 state highway patrolmen), constitutes a sort of transitional zone between modern police methods and the heavy-footed, slow-moving common law sheriff and constable. Needless to say, the atomistic character of Texas policy authorities does not provide a very high degree of integration or unity of policy. The tenure of the police executive is reminiscent of the Wickersham report on police, while the persistence of the spoils system, even under civil service, assures one that Texas is still following a traditional American pattern. A few of the larger cities have made some progress toward a scientifically and professionally oriented police administration. This little volume should be

studied carefully by police administrators and students of local government, and by intelligent citizens at least twice.—J. P. SHALLOO.

Since the fair trade acts first hove upon the horizon of legislation dealing with competitive practices, there have been numerous articles dealing with them, but one of the very few books written on them is Stanley E. Weigel's *The Fair Trade Acts* (Foundation Press, pp. xii, 260, $5.00). It is by no means an adequate volume. As a work on fair trade acts, it is not to be compared with a treatment like that of W. W. Thornton of the Sherman Act, or the Clayton Act, or the Federal Trade Commission Act. With books on the same subject, such as those of Zorn and Feldman, of Norwood, and of Ingersoll, Johnson, and Montagu, it compares rather favorably. A definitive book on the development to date of this type of legislation has yet to be written. Mr. Weigel's volume seems to have been prepared with the practicing lawyer or the hurried business man in view rather than the student. For people such as those for whom the book apparently was written, it has undoubted value. It has brought together certain information which, for them, is not readily accessible. Of the 260 pages, some 71 are devoted to a discussion of fair trade laws. The remainder present texts of the state statutes and of the Miller-Tydings Act, texts of opinions in leading cases on the subject, forms of contracts, notice and complaint, a bibliography, and an index, all of which are useful for the hurried practitioner and hard-pressed business man, but not to the genuine student, who has them already, albeit in other forms.—SMITH SIMPSON.

Almost every teacher of municipal government and administration has his own notion as to what such a course should include, and consequently there is bound to be a difference of opinion as to the selection of the contents of a book such as that presented by Charles M. Kneier under the title *Illustrative Materials in Municipal Government and Administration* (Harper and Brothers, pp. xix, 632, $3.50). Professor Kneier devotes approximately one-third of his space to the government and politics of cities, and the remaining two-thirds to administration. Municipal liability, expenditures, revenues, debts, the regulation of public utilities, municipal ownership, planning, zoning, and housing are all generously dealt with, but public welfare, education, recreation, and reporting are entirely omitted. Some instructors in undergraduate courses will probably feel that the legal aspects have been over-emphasized and that too many judicial decisions have been included. Altogether, however, the collection is a valuable one and will meet a genuine need.—HAROLD ZINK.

FOREIGN AND COMPARATIVE GOVERNMENT

Women Servants of the State, 1870–1938 (London: George Allen and Unwin, pp. 218, 7s. 6d.), by Hilda Martindale, is an interesting study of

the history of the employment of women in the public service in Great Britain, from the time when it was considered unconventional and to a degree immoral to permit females to work in the same room with men, to the present, when 80,000 women are on the public pay-roll in the various branches of the civil service. Women were employed originally because they were willing to work for a lower wage than men, were more diligent, and came from a better social class. Beginning as operatives in the telegraph branch of the Post Office, women were soon employed in the Savings Bank Office, the Local Government Board, and other agencies concerned with the problems of social welfare. Indeed, the history of women in the public service is the history of social betterment and of the expansion of governmental administration in the field of welfare legislation. The World War further liberated women from the shackles of inequality and opened to them important administrative posts of responsibility on equal terms with men. Their excellent service finally resulted in the recruitment of women on the same basis as men. The author, herself a public servant of distinction, gives a succinct biographical sketch of three outstanding women in the civil service. The book is a scholarly contribution in the field of public administration, of particular interest to women, and written by a woman who possesses a great loyalty to the service, a wide sympathy for the efforts of her sex to achieve opportunities for distinction, and a mischievous sense of humor which can laugh without malice at the weakness of men's logic when they feel themselves compelled to support the losing side.—ELIZABETH A. WEBER.

An interesting contribution to the growing body of writings on National Socialism by distinguished German exiles is Albert G. Grzesinski's *Inside Germany* (E. P. Dutton and Co., pp. 374, $3.50). The author undertakes to outline the history of the Republic, to describe his own activities as a German labor leader, Prussian minister of the interior, and police president of Berlin, and to discuss the evolution, organization, and aims of the National Socialist system. Much of the book is a recapitulation of general historical background, which suffers in comparison with the more systematic treatments by Rosenberg, Clark, and others. The sections on party organization and on the political and economic structure of the Third Reich are fairly extensive, but lack organization. There are no footnotes and only occasional references to specific sources, despite the citation of much "official" statistical material. The writer is at his best when drawing upon personal experience in discussing personalities and political maneuverings in the Weimar Republic. Even here, however, there is little that is new; much of the narrative is a defense of the policies of the author and his associates among right-wing Socialists. The analysis of Hitler's rise to power follows the familiar pattern: re-

action of the German people to the treaty of Versailles, subsidization of the National Socialist movement by German and foreign capitalists, skillful propaganda, despair engendered by the depression, and personal treason to the Republic by President von Hindenburg. The author believes that National Socialism is synonymous with war, and that the democracies, in the interest of peace, should combine to destroy the system. *Inside Germany* should be useful to the general reader for the personal and descriptive material that it contains; the specialist is unlikely to find in it much of significance for him.—ALFRED V. BOERNER.

In *The Day of the Liberals in Spain* (University of Pennsylvania Press, pp. 341, $3.50), Miss Rhea Marsh Smith traces the course of the Liberal movement in Spain into the early years of the Second Republic. Five of the twenty-one chapters are devoted to a summary of the historical background of the revolution of 1931, with a particularly valuable emphasis on nineteenth-century liberalism; then follows a discussion in more detail of the varied problems faced by the Liberals of 1931, especially as they affected the drafting and creation of the constitution of the Second Republic. Problems affecting the Second Spanish Republic, social, economic, and political—as "the family and education" and "finance and reform"—are given full treatment in separate chapters. This reviewer has been especially impressed by the objectivity—considering the bitterness of the Spanish struggle—which Professor Smith has shown in this thoroughly documented and detailed account of the Spanish Liberal movement and of the early achievements of the Second Republic. The work is replete with specific statistical data not ordinarily available. Perhaps it may be reasonably objected that too much of *The Day of the Liberals* is based on so-called "secondary" works, and to some extent this may be a weakness. If it is, it is nevertheless in a large measure offset by the thoroughness of the annotated and descriptive bibliography. With painstaking care the author has evaluated the various works that she cites, indicating their general content and scope, their strong points and weaknesses, and the points of view and prejudices of their authors. *The Day of the Liberals in Spain* does credit to Professor Smith, to the University of Pennsylvania (in whose graduate school it was written as a doctoral dissertation), and to its publishers.

Farm Credit in Canada (University of Toronto Press, pp. viii, 260), by W. T. Easterbrook, is a timely and significant attempt at a new approach to the important problem of farm credit. As stated in a foreword by H. A. Innes, "the subject falls roughly into three periods: the first, when agriculture occupied a secondary position in relation to the staple products, fish, fur, and timber; the second, when it became the basis of staple exports—livestock, dairy products, and fruit; and the third, when it

shifted from a rapidly expanding position to a sharp decline in the rate of expansion and to a retreat." That part of the book dealing with farm credit before Confederation—the story of agricultural development in the St. Lawrence region and of its western expansion—constitutes a very readable history of agricultural development in early Canada. The limitation of agriculture to staple crops in New France and Nova Scotia is emphasized, and the differences between the French seigniorial tenure system and the British system of free and common socage with the payment of a quitrent are discussed and evaluated. The self-sufficiency of agriculture in the early period gave way to a dependence by farmers on credit advanced by trading companies and small merchants. An attempt to supply sufficient credit and stimulate agriculture was made by the formation in 1826 of the Canada Company, which extended credit liberally to those who owned land, believing that they would make the best settlers. According to the author, 1837 marked the emergence of agriculture as a primary industry. As it grew, credit, which became increasingly necessary, was supplied by the Western Canada Loan and Savings Company and similar organizations. The second half of the study—largely statistical, as has been mentioned—has a special heading, "Governments and Farm Credit," and contains a ten-page introduction. Provincial and federal attempts at establishing bases or means for farm credit are discussed, and contrasts between provincial legislation, east and west, are noted. Having noted the present-day national character of the problem, the author outlines the advantages in federal legislation over provincial as follows: the greater credit facilities of the Dominion, the comparative absence of local pressure, and the possibility of coördination of credit policies with other forms of central administration. The concluding pages point out certain differences between the farm credit problem in the United States and in Canada.—JOHN G. HERNDON, JR.

R. K. Gooch's *Source Book on the Government of England* (D. Van Nostrand Co., pp. 494, $3.00) is a very useful addition to a well-known series of teaching aids. It draws freely on legal documents of all kinds, including parliamentary standing orders and civil service regulations; and it supplements these with extracts from such parliamentary papers as the Report of the Committee on Ministers' Powers. Moreover, it reprints some authoritative publications of the Conservative and Labor parties which are not easily available elswhere. It, of course, still leaves the student to turn to Bagehot, Dicey, and the life of Asquith, if he is even to begin to understand the all-important unwritten conventions of British politics. And only the volume's party documents do much to illuminate those relations between government and other social entities wherein the subtle difference between free and totalitarian states is prob-

ably to be sought. But the student of today is as interested in the machinery of government as in the spirit of the constitution, and in this book many of his most pressing needs are met; although it throws more light on national organization than on central-local relationships, and concentrates on political operations rather than on the rendering of services. Its aim is to illustrate, rather than to explain. And on the organization of the national government, it would be hard to find a more convenient compendium of primary material.—W. HARDY WICKWAR.

The eight years from the outbreak of the Franco-Prussian war to the death of Pope Pius IX are the subject of a searching examination in *Italy and the Vatican at War* (University of Chicago Press, 1939, pp. 483, $3.00), by William S. Halperin. The study deals with the momentous events and controversies in the field of Italo-Papal relations, taking in such topics as the occupation of Rome, the "prisoner of the Vatican," the Law of Guarantees, and various other parts of the church-state feud, both in their domestic and their international aspects. Dr. Halperin's book is replete with valuable characterizations of comparatively minor situations, always judicially weighed and amply buttressed with pertinent quotations and citations. One misses, however, a general picture that is now hidden among the multitude of situations and the accompanying 2,414 footnotes. We hope that in his third book of the series (the first one having dealt with the political theory of the separation of church and state in Italy) the author will give us the benefit of the mature judgment of a man who has mastered an enormous amount of material, much of it from hitherto unpublished documents in French and Austrian archives.—JOHN BROWN MASON.

In September, 1938, the second Conference on British Commonwealth Relations was held at Lapstone, near Sydney, Australia. *The British Commonwealth and the Future* (Oxford University Press, pp. xvi, 336, $3.00), edited by H. V. Hodson, contains a report of the proceedings. The agenda for the Conference, drawn up by a committee in 1937, outlined as the basic subjects for consideration: the interests of the individual nations of the Commonwealth; external policies in their economic aspect; external policies in their political and strategic aspects; and the future of the Commonwealth as a coöperative organization. The members of the Conference were, in all cases, unofficial. They made no effort to agree upon resolutions, but rather aimed at acquainting one another with the differing viewpoints prevailing in their several countries. The commission reports and the proceedings of the Conference indicate the wide diversity of interests represented. In fact, the chairman of the Conference states in his foreword the conviction that the discussions indicated that the real unity and basis for coöperation within the British Commonwealth is to

be sought, not in the adoption of formal constitutional bonds, or even of uniform policies in trade and defense, but rather in the close similarity of the ideals of government found among the extraordinary diversity of opinions relative to specific policies. The volume contains much valuable material upon conflicting interests and opinions within the Commonwealth and gives the reader a lively appreciation of the enormous difficulties confronting Commonwealth statesmen in working out policies which harmonize these interests and opinions.—ELMER D. GRAPER.

Karl R. Bopp's *Hjalmar Schacht: Central Banker* (University of Missouri Studies, pp. 91, $1.25) is a fine piece of expository writing. Never relying on a technical vocabulary, Bopp explains such intricate questions as the inflation and the subsequent stabilization of the mark, the effect of the post-war foreign loans on German economy, and the functioning of the multitudinous kinds of marks which constitute German currency today. Schacht's fame began with the stabilization of the mark, grew with the overthrow of reparations, and reached its height with the financing of Germany's rearmament and unemployment programs. His undoubted courage is based on "an unusual ability of critical analysis, which includes an almost prophetic ability to foresee and help create the more remote future." Voluble, often inconsistent, supremely confident in himself, he has always had political ambitions. A supporter of democracy and a liberal economy, he is nevertheless an opportunist and has been able to fit himself into the regimented Nazi state.—E. C. HELMREICH.

Although known to scholars as an anthropologist, Robert Briffault has also written a successful novel and has currently turned his hand to a work with the provocative title, *The Decline and Fall of the British Empire* (Simon and Schuster, pp. 263). This attempts, in brief space, a history and analysis of the British Empire and British imperialism. The author, although of English origin and descent, is frankly an Anglophobe and his prejudices are indulged on every page, almost one might say, in every sentence. The result is a book which reads in places as if written in a temper tantrum, which contains literally hundreds of obvious untruths and half-truths, and yet which also has many incisive passages that throw a clear if unconventional light upon British behavior. The aristocracy and the middle and lower classes are in turn subjected to pitiless scrutiny, and all are found to be devils or dupes. The Labor party is explained as serving not merely to ensure the propertied class against revolution, but as "more practically efficient as an instrument of undefiled reaction than anything devised by the crude methods of the Nazis." Mr. Briffault sees little future for a waning capitalist imperialism in a changing world which already contains the leaven of Soviet socialism. Teachers of courses

in the expansion of Europe or of the government of the British Empire may find in this book a stimulating piece of collateral reading.—MORLEY AYEARST.

The Whig Party, 1807–1812 (Macmillan and Co., pp. viii, 453, $8.00), by Michael Roberts, is a detailed history of a disintegrating political party. The causes of the Whig failures are found mainly in the factious opposition to the war and the troubles over the leadership. The important political rôle of the sovereign at this period is revealed clearly. The scholarship is competent, and one of the features of the book is the extensive quotations from the correspondence of the leading actors. The style is not, however, always as clear as it might be, and the topical organization tends to obscure the chronological continuity. Moreover, the dates which mark the limits of the treatise seem to have been chosen rather arbitrarily. For readers who want a briefer treatment of the subject, there is an introduction which surveys the whole period, and convenient summaries will be found at the ends of the chapters.—JOSEPH R. STARR.

INTERNATIONAL LAW AND RELATIONS

In *World Trade* (Henry Holt and Co., pp. iii, 458, $2.75), Dr. Ethel B. Dietrich presents a most complete and understandable study of the conditions of trade and commerce in the world today. Following an introductory chapter on world trade, the book is divided into two parts: (1) National Commercial Policies, and (2) International Commercial Policies. In the first part, the author discusses the various methods, such as tariff, subsidies, quotas, and foreign exchange control, by which states are coming increasingly to restrict the flow of trade and commerce. The second part deals with present-day efforts to counteract nationalistic policies through the extension of most-favored-nation treatment, tariff reciprocity agreements, regional pacts, and raw material and commodity agreements. Some mention is made also of the efforts of international organizations, such as the League of Nations and the Pan-American Union, in this direction. The author is concerned only with the description and application of these economic activities and not with the political or economic philosophy behind them. Recognizing that free trade is out of the question under contemporary economic conditions, Dr. Dietrich recounts the rise of new industrial states, e.g., Japan, and declares that the older trading states must find new means to meet this competition. The means suggested are (1) the development of new and more efficient promotion techniques, (2) the shrinking of certain export trades, and (3) international coöperation. The value of the book is increased by a selected bibliography and by more than thirty tables and charts of pertinent economic facts. There are relatively few footnotes, in this case a minor criticism.—CARL M. FRASURE.

"The phases of our business cycles have definitely predetermined our immigration policies." This thesis persists throughout Harold Field's *The Refugee in the United States* (Oxford University Press, pp. 229, $2.50) and refutes the notion that altruistic considerations have been paramount in our handling of this problem. The author's study is complicated by the indistinguishability in our public law between the refugee and the immigrant. Despite this handicap, he manages to present a fairly comprehensive study of the various refugee groups as well as the problems which confront them in a country where eight or nine out of every ten jobs are not open to aliens. Contending that we are richer because of the presence of these refugees, he concludes that "in developing any policy toward the refugee, economic factors should be a check but not a bar; the social, humane factors are the primary ones to give heed to." Utilizing an international approach to the question, Sir John Hope Simpson's *The Refugee Problem: Report of a Survey* (Oxford University Press, 1939, pp. xv, 637, $10.00) also recognizes the complications raised by economic considerations—especially the currently popular belief that there is a "non-expansible amount of labor opportunity in a given economy from which each additional worker subtracts a portion." This study presents an excellent picture of the origins and progress of those post-War refugee movements which originated in European countries, in the Ottoman Empire, and in the Russian Empire, by reason of political and social catastrophes. Each important movement is traced to the present land of domicile, and conditions therein are portrayed. Considerable space is devoted to aims and methods of private, public, national, and international organizations devoted to assisting the several refugee groups. The *Report* maintains that the refugee problem is a "world responsibility demanding international action by governments," and too urgent "to allow postponement of action until solutions are found of the general economic and political *malaise* of which the existence of refugees is a symptom." Chapter XVII, entitled "Solutions," briefly sketches a few possible approaches to the whole problem, pointing out, however, that the immediate preoccupation of the High Commissioner of the League of Nations and the Intergovernmental Committee constituted recently at Evian must be the condition of refugees from Germany. Anti-semitic excesses in Germany and elsewhere occurring at the moment when his book was nearing completion must considerably have diminished the author's hope for an early settlement.—VERNON A. O'ROURKE.

Recent events in the Far East have brought forth a deluge of books dealing with the modern phases of Oriental politics, and the relation of the Orient to the world powers, including America. These events have also stimulated interest in earlier phases of the relations between America

and the countries of Eastern Asia. We are sometimes apt to forget that America played a greater part in Oriental politics, and the Orient a greater part in the commercial and diplomatic life of America, from 1800 to 1860 than from 1860 to 1898, and that subsequent developments both in America and the Far East were strongly influenced by the contacts established during this early period. Since Tyler Dennett's *Americans in Eastern Asia*, the standard book in its field, no book has served so well to bring out this point, and to prove it by a mass of confirmatory detail, as Eldon Griffin's *Clippers and Consuls; American Consular and Commercial Relations with Eastern Asia, 1845–1860* (Ann Arbor: Edwards Brothers, pp. xxii, 532, $10.00). Mr. Griffin has limited himself to the period 1845 to 1860, the all-important period of the Second Opium War and the opening of Japan, and has therefore been able to bring together an enormous amount of information hitherto not available in any other secondary work. Many years have been spent in accumulating and sifting information, and as a result the author has written a scholarly book which will prove of great worth both to students interested in the Far East and also to those interested in diplomatic history and the history of the development of our own consular and diplomatic service. The major criticism of Mr. Griffin's book is that in spots it is repetitious and long-winded. Some sections are eminently readable, other sections suitable only for reference. Mr. Griffin has added a classified bibliography which is extremely useful, but it should be noted that all of his sources are Western (American or European). At some future day, it is to be hoped that he or some other scholar will explore the vast mass of Chinese and Japanese material which throws light on this subject.—WILLIAM M. MCGOVERN.

S. Shepard Jones' *The Scandinavian States and the League of Nations* (Princeton University Press and American Scandinavian Foundation, pp. xiii, 298, $3.00) is the first attempt to write the complete history of the activities of the Scandinavian states within the League. Its high scholarly qualities, its acute analyses of a wealth of material, and its detached, objective attitude toward the political problems dealt with make it the definitive presentation of the subject, as far as diplomatic history is concerned. The League of Nations has afforded the small European states a unique opportunity to take an active part in world politics. It would certainly be a mistake to overrate the actual influence of these states during the era of the League, and to forget that there has been on the stage at Geneva—as on any other stage—a marked distinction between those who appear in the limelight of the scene and perform the play, and those who write the text and stage the show. But there is no doubt that men like Branting, Lange, Munch, Sandler, and Unden knew

how to use the peculiar, partly pseudo-parliamentary, partly pseudo-diplomatic procedure of the League in order to influence political decisions and, when this was impossible, to draw up legal schemes, to invent political formulas and ideological devices, to soften or to strengthen political trends, to justify or to condemn decisions arrived at by others. The author does not criticize, and he leaves it to the reader interested in the theory of international politics to conclude from his story, by implication, how the internal contradiction between participation in a system of collective security and the simultaneous desire to remain aloof from power politics was bound to frustrate the activities of the Scandinavian and the other small European states within the framework of the League.—HANS J. MORGENTHAU.

In *The Diversion of International Waters* (privately printed, pp. 121), James Simsarian seeks to assemble the rather meager body of international law governing the subject. His study of United States practice shows that in dealing with its northern and southern neighbors this nation has always maintained the common law right to divert all waters when flowing entirely within United States territory, even though tributary to boundary waters, and regardless of the effect outside of its boundaries. Where waters form an international boundary, the United States has held that they are to be shared equitably by the riparians, and diversion is to be governed by mutual agreement. As an aid in determining the law, the author examines the work of the United States Supreme Court in settling interstate disputes concerning diversion. He finds three governing principles: first, that federal statutes concerning such matters as navigation are applied if they cover the case; second, that in arid regions prior appropriation constitutes a valid claim; and third, that elsewhere the apportionment between riparian states must be equitable. The author notes, however, that though the Supreme Court sometimes mentions international law in its decisions, no specific rule of such law has been stated as governing the case involved. As between sovereign nations, the author finds that lack of agreement concerning the law has resulted in substituting equitable arrangements by treaty, but that these have thus far failed to establish any generally accepted principles other than those stated above. Parts of this study have previously appeared in professional journals, including this REVIEW. The work is carefully documented, and the conclusions are logically reached and clearly stated.—HAROLD J. TOBIN.

The Balkan Wars had hardly ended before they were overshadowed by the World War. As a result, historians have hitherto treated them as incidents leading up to the more important struggle. In *The Diplomacy of the Balkan Wars, 1912–1913* (Harvard University Press, pp. xiv, 523,

$5.00), however, Professor E. C. Helmreich centers the attention of students of diplomatic history directly on the earlier struggle. The author, obviously, was well equipped for his task. He not only has used the well-known documentary collections, memoirs, biographies, and monographs so much used by students of the origins of the World War, but he has read important materials in Italian, Russian, and Bulgarian, particularly the little known "Report of the Bulgarian Parliamentary Commission of 1918." In addition, he has exploited the War Archives at Vienna and has interviewed some fifty participants in Balkan affairs. After collecting his sources, he has subjected his raw material to penetrating criticism and finally produced a skilfully organized, well-written book. As a starting point for his study, he has taken the Serbian-Bulgarian agreement of 1904. From that date until the outbreak of the Balkan Wars, he finds negotiations being carried on almost constantly by Serbia and Bulgaria, crediting their final success to the pressure of Macedonian and Serbian secret societies. He attributes the later inclusion of Greece in the *bloc* to Venizelos. At first, the completed alliance was a two-edged weapon, threatening both Austria and Turkey. The author follows the story of the formation of the alliance with detailed accounts of the unpreparedness of Turkey, mobilization, the course of the two wars, the attitudes of Russia and Austria toward the conflict, the unsuccessful peace negotiations, the results of the proposal to establish Albania, and the final settlement.—C. P. HIGBY.

T. A. Taracouzio's *Soviets in the Arctic* (Macmillan Co., pp. xiv, 563, $7.50) should prove an indispensable handbook for those interested in the Soviet *Drang nach Norden* and the general problem of sovereignty in the Arctic. Mr. Taracouzio has made extensive use of Russian sources and assembled a rich variety of documentary material not hitherto available in English. The geography of the Soviet Arctic is described in painstaking detail, and there is a comprehensive account of Soviet exploration, economic development, and social-cultural reconstruction in the Arctic area. The author has been indefatigable in combing Soviet publications for relevant data, but there is little evidence that the information thus derived has been checked against personal observations. Political institutions as they exist in the Arctic are described as they exist on paper, rather than as going concerns. While the author is inclined to discount the grandiose Soviet plans for the conquest of the Arctic and to take Soviet statistics and claims of achievement *cum grano salis*, he, nevertheless, concludes that the Soviet régime has brought tangible material benefits to the peoples of the Arctic, that it has largely succeeded in overcoming their distrust of cultural and political innovations, and that, in general, Soviet progress in the Arctic "is to be classed as one of the

outstanding achievements of the Post-War period." The final chapter of the book, in which Mr. Taracouzio considers the Soviet claims in the Arctic, will be of particular interest to international lawyers. The author provides a thorough analysis and criticism of the sector theory and concludes that a rational settlement of the problem of sovereignty and jurisdiction in the Arctic requires the convocation of an international conference at which non-Polar as well as Polar states should be represented. —MERLE FAINSOD.

A valuable work of reference has been prepared by Mrs. Helen Clarkson Miller Davis in collecting and publishing documents, with fifty pages of comments, under the title *Some Aspects of Religious Liberty of Nationals in the Near East* (Harper and Brothers, pp. xviii, 182, $3.00). Mrs. Davis has selected pertinent portions from treaties, laws, international agreements, and official pronouncements, among the numerous regulations regarding religious rights in the various countries of the Near East, particularly since the Great War. Excerpts are included from the Covenant of the League of Nations, from the Mandate for Syria and the Lebanon and related constitutions and treaties, from the Mandate for Palestine and documents concerning Transjordan, and from the constitutions and other instruments relating to Iraq, Egypt, the Sudan, and Turkey. Included also are regulations with respect to change of religion and protection of religious minorities; the latter relate not only to the Near East, but to other countries of eastern and southeastern Europe. Appendices discuss the origin and purpose of the minorities treaties, the rules of procedure of the League Council in respect of petitions concerning inhabitants of mandated territories, and a résumé of personal status codes and courts in French mandated territory.—A. H. LYBYER.

In *Egypt and the Formation of the Anglo-French Entente of 1904* (University of Pennsylvania Press, pp. viii, 141, $1.50), Dr. Joseph J. Mathews summarizes the negotiations which preceded the conclusion of the Anglo-French treaty of April, 1904, and analyzes the reception of it in England and abroad. Apart from Chapter I, which is devoted to a sketch of "The Difficult Position of Great Britain in Egypt," the discussion is divided fairly evenly between the problems presented by Egypt and those connected with Morocco. The monograph contains much information from British, French, and German diplomatic documents. It will be found useful by students of international relations in the crowded years at the opening of the present century, although they may wish that the author had given a fuller account of the changes in the administration of Egypt which were the direct result of the Anglo-French treaty.—PAUL KNAPLUND.

Samuel Van Valkenburg's *Elements of Political Geography* (Prentice-Hall, Inc., pp. xix, 401, $3.50) is the first book purporting to deal with

the basic elements and principles of political geography that has appeared in this country. In Part One, admitting his courage, the author introduces the *Leitmotif* of the book, which is, that much of the world's pattern of political stability and instability is to be understood through recognition of a cycle of evolution in states, from energetic youth, through dynamic adolescence and settled maturity, to timid old age. In each stage, a nation has contrasting ambitions and different internal and external problems. Part Two is a type study of the political geography of France. Parts Three, Four, and Five analyze and evaluate the physical, economic, and human elements. Part Seven, "The Future of the World," returns to the *Leitmotif* and pessimistically suggests what is admittedly an almost unattainable solution for world peace.—GLENN T. TREWARTHA.

POLITICAL THEORY AND MISCELLANEOUS

The title of Dr. Louis A. Warsoff's *Equality and the Law* (Liveright Publishing Corporation, pp. x, 324, $3.00) is misleading. The book is a treatise on equal protection of the law. The first half of the work is a history of the equal protection clause; the second half, a treatise on the application of the clause by the courts. The work is unusual and can be appraised only in terms of a balance sheet. On the credit side, Dr. Warsoff has furnished us with a dramatic and authenticated account of the passage and ratification of the Fourteenth Amendment. He has sought to distinguish between equal protection and due process. He also must be given credit for his skillful handling of the application of the Fourteenth Amendment by the courts. First, we witness a trend away from federal centralization to states' rights and a shift from a protection of the freedman to a defense of corporate enterprise. Next we find Justices Field, Bradley, and others expounding a philosophy of individualism which prevailed for two decades and culminated in Lochner v. New York. Then enter Brandeis and "realism in social legislation." After the World War, we witness a recession to individualism. In "The Last Four Years," we return to liberalism. In short, Dr. Warsoff has supplied us with academic proof of Mr. Dooley's sage observation. On the debit side, the author has been careless in his selection of proofreaders. Mistakes in citations occur among the best of writers, but when we are informed that Mr. Justice Brewer spoke for the Court in a 1928 opinion, our credulity is strained. The bibliography gives one the impression of jottings from memory and dictated but not read. Two gentlemen, namely, "Corvin, Ed." and "Corwin" are given credit for the authorship of the same article in the same journal, but Corvin got a head start of a page on Corwin. Even a versatile mind like Beard's would be taxed by an "Economic Construction of the U. S. Constitution." Anonymous articles are listed under "The Editor," and several important decisions are cited under

"In re." Finally, the usefulness of the book as a reference work is impaired by the absence of an index. This criticism is not offered in a spirit of fault-finding. Dr. Warsoff has woven a good piece of cloth, tailored a handsome suit, and then neglected the buttons. But, with all its faults, the book is worth reading.—WALTER THOMPSON.

The history of Anglo-American corporation theory is considerably advanced with the publication of two recent volumes of the Foundation for Research in Legal History at Columbia University. Peering deeply behind the abstract phrases of law reports and statute books, Armand Budington DuBois, in *The English Business Company after the Bubble Act: 1720–1800* (The Commonwealth Fund, pp. xxi, 522, $5.00), and Shaw Livermore, in *Early American Land Companies; Their Influence on Corporate Development* (The Commonwealth Fund, pp. xxx, 327, $3.50), demonstrate how misleading was Blackstone's classic account of corporate status in the late eighteenth century. In the valuable "Editor's Introduction" to the second book, Julius Goebel, Jr., documents the vigorous "associative impulse" among colonial Americans, especially the Congregationalists, who knew and cared little about the polished concession theories of the jurists, justifying their corporateness by covenant rather than charter, and establishing thereby a solid precedent for virtual freedom of corporate growth. More elaborately, Livermore shows the same trend in a survey of all land projects from 1750 to 1800, when *ad hoc* business associations sprang up without benefit of sovereign grant of corporate status, though calculated to achieve the advantages of incorporation. According to Livermore, their promoters actually laid the foundation for the modern business corporation; but they took their pattern, not from the jurists' conception of a corporation, but from English companies which multiplied after the Bubble Act in 1720. DuBois has ferreted out the history of these English companies in the records of government departments, of the companies themselves, as well as in numerous opinions of counsel recorded in minute books, letters, and other papers. It was in these hitherto buried opinion-books of counsel, and not in court-made law, that the law of modern business corporations was being forged. Both studies contribute importantly to our knowledge of the evolution of corporation theory by testing some of the received doctrines with new data.—JAMES J. ROBBINS.

The Development of Political Theory, by Otto von Gierke (W. W. Norton and Co., pp. 361, $3.50) is a translation, carefully executed by Bernard Freyd, of Gierke's famous monograph, *Johannes Althusius und die Entwickelung der naturrechtlichen Staatstheorien.* As is known, the first part of the monograph is concerned with the life and doctrine of Althusius, especially in those aspects having to do with the doctrine of popular

sovereignty and the "Nature-Right" conception of the state. In the second part, the writer traces "the historical development of those ideas which are characteristic features in the politics of Johannes Althusius," thus assigning to Althusius his due place in the history of political thought, and at the same time presenting an important chapter in that history. Althusius here appears as "among the masters . . . far above the crowd of apprentices and journeymen," and as in many respects the founder of "the constructive theory of the constitutional state." The translation is a timely contribution, at a moment when the nature of the state and of its relation to the individual is so much in the foreground of our thinking. Especially is it significant thus to make available a knowledge of the large part played by Germans, as the author is careful to emphasize, in the history of liberal political philosophy.—ELLEN DEBORAH ELLIS.

Social Work Year Book, 1939 (Russell Sage Foundation, pp. 730, $3.50), edited by Russell H. Kurtz, continues a series of such volumes issued in 1929, 1933, 1935, and 1937. As a compact encyclopedia, it contains articles by experts on many phases of social work and related activities. Part I is composed of topical articles on such subjects as administration of social agencies, civil liberties, community chests and centers, labor legislation, legal aid, merit systems in public welfare, parole, and youth programs. Part II contains a short report on the public assistance programs of each state. Part III comprises a directory of 982 national and state agencies. Such outstanding leaders as John B. Andrews, Roger Baldwin, John Collier, Michael M. Davis, Dr. I. S. Falk, Dr. William Healy, Fred K. Hoehler, Isidor Lubin, Dr. Ellen Potter, and Marietta Stevenson have contributed articles. Each *Year Book* gives an over-all view of social work at a given time, and the five books taken together afford a recent history of the profession.—HELEN I. CLARKE.

RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

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AMERICAN GOVERNMENT AND PUBLIC LAW

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